

TOWN OF MENDON

ZONING REGULATIONS

FINAL AMENDMENT

Approved by:

MENDON PLANNING COMMISSION (11/20/2025)
MENDON SELECTBOARD (1/26/2026)

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MENDON ZONING REGULATIONS

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ARTICLE I: GENERAL PROVISIONS

Section 101 - Enactment

The regulations contained in the following text and map shall be known as the "Town of Mendon Zoning Regulations" adopted under the authority of and in accordance with 10 VSA Chapter 32 and the 24 VSA Chapter 117, hereafter referred to as "the Act".

Section 102 - Intent

It is the intent of these zoning regulations to provide for orderly community growth in harmony with and in conformance with the current Mendon Town Plan.

Section 103 - Amendments

These regulations may be amended according to the requirements and procedures established in 24 V.S.A. §§ 4441 and 4442.

Section 104 – Interpretation

- (a) These regulations shall be interpreted and applied as the minimum requirements necessary to promote public health and safety, convenience, prosperity, and general welfare; to mitigate the burden of property taxes; to protect residential and conserved areas from overcrowding and loss of peace, quiet, and privacy; to facilitate growth and development to provide and ensure that residents of the Town can access necessary resources and services; and to conform with the most current Mendon Town Plan. In implementing these bylaws, care shall be taken to protect the constitutional rights of the people to acquire, possess, and protect property.
- (b) Except for 24 V.S.A. 4413(c), and where these regulations specifically provide to the contrary, it is not intended by these regulations to repeal, annul or in any way impair any permits previously issued.
- (c) Where these regulations impose a greater restriction upon the use of a structure or land than are required by any other statute, the provisions of these regulations shall apply. These regulations shall take precedence over any conflicting and less restrictive local ordinances, rules, or policies in effect at the time of their adoption. Nothing in these regulations absolve the applicant of their responsibility to obtain all required local, state, and federal permits before commencing any development in the Town of Mendon. Interpretation of these regulations shall not in any way impair or remove the requirements to comply with any other local, state, or federal laws or regulations.

Section 105 - Effective Date

These regulations shall take effect when duly adopted in accordance with the procedures contained in Section 4442 of the Act.

Section 106 - Severability

If any provision of these Mendon Zoning Regulations shall be held unconstitutional or determined to be invalid by a competent court, superseding Vermont statute, or unenforceable for any reason, the remaining provisions shall continue to remain in full force and effect.

Section 107 - Warning of Disclaimer of Liability

These regulations shall not create liability on the part of the Town of Mendon ("Town") or any town official or employee thereof resulting from reliance on these regulations or any administrative decisions lawfully made thereunder. These regulations do not imply that land outside the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damage.

Section 108 - Fees

The Selectboard shall establish such fees as may be necessary for the filing of applications for permits, notices, the processing of hearings and action thereon. These fees shall be a condition to the validity of the filing, per 24 V.S.A. §4440(c). Any required fees under these regulations shall be paid to the Town Clerk. An application for a permit or hearing shall not be deemed complete until the required fee is paid. An appeal shall not be deemed timely unless the required fee has been paid by the appeal deadline.

Section 109 – Reserved

Section 110 - Scope

- (a) These regulations may only regulate the uses outlined in 24 V.S.A. §4413(a)(1) with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that these regulations do not have the effect of interfering with the intended functional use.
 - (1) These regulations shall not regulate the daily or seasonal hours of operations for emergency shelters (as defined in 24 V.S.A. § 4303), per 24 V.S.A. §4413(a)(3).
- (b) Except for State-owned and -operated institutions and facilities, each of the land uses listed in 24 V.S.A. §4413(a)(1) may be regulated as outlined in 24 V.S.A. §4413(a)(2). This section of state law relates to compliance with regulations pertaining to the Special Flood Hazard Area.
- (c) Nothing in these regulations shall be construed to:
 - (1) Regulate required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets;
 - (2) Regulate accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices that are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or
 - (3) Regulate forestry operations (as defined in 10 V.S.A. §2602).
 - (4) Have the effect of prohibiting or penalizing a hotel (as defined in 32 V.S.A. 9202) from renting rooms to provide housing assistance through the State of Vermont's General Assistance program, or to any person whose room is rented with public funds, per 24 V.S.A. § 4412(1)(H).
 - (5) Have the effect of prohibiting unrelated occupants from residing in the same dwelling unit, per 24 V.S.A. § 4412(14).

Section 111 - Exemptions

- (a) No zoning permit shall be required for the following activities in any zoning district:
 - (1) Required agricultural practices (RAPs), including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with the Act §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the Zoning Administrator prior to any construction, as required for AAPs. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary of Agriculture.
 - (2) Accepted management practices (AMPs) for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with the Act §4413(d).
 - (3) Power generation and transmission facilities, which are regulated under 30 V.S.A. §248 by the Vermont

Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Mendon Town Plan.

- (4) Hunting, fishing, and trapping as specified under 24 V.S.A §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as outdoor recreation facilities or other use.
- (5) Subdivisions of land that require subdivision approval.
- (6) Normal maintenance, repair, and interior or exterior alterations to existing structures are exempt, so long as they do not expand the footprint or height, alter the exterior appearance, or result in a change of use.
- (7) Residential entry stairs and landings (excluding decks and porches) which do not extend into setbacks, extend into or obstruct public rights-of-way, or interfere with corner visibilities or sight distances for vehicular traffic.

Note: Decks and porches that expand the building footprint require a zoning permit. Patios (i.e. at-grade) do not require a zoning permit.

- (8) Handicap access ramps, walkways, fences, or walls less than six (6) feet in height which do not extend into or obstruct public rights-of-way or interfere with corner visibilities or sight distances for vehicular traffic.
- (9) Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities.
- (10) Except as provided in Section 417, outdoor recreational trails (e.g., walking, hiking, cross- country skiing and snow mobile trails) which do not require the installation of structures or parking areas.
- (11) Small accessory buildings associated with residential uses which are less than 100 square feet of floor area and less than twelve (12) feet in height, and are not located within required setback areas.
- (12) Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year.
- (13) Primitive Camps (See Section 618)
- (14) Solar arrays not connected to the electric grid; adheres to the setbacks for the district as outlined in Article III; and not exceeding nameplate 30 KW.

ARTICLE II: ESTABLISHMENT OF ZONING DISTRICTS AND MAP

Section 201 - Establishment of Zoning Districts

The Town of Mendon is hereby divided into the following six (6) zoning districts shown on the Official Zoning Map:

1. Village District	2. Residential District I	3. Rural District
5. Commercial District	4. Residential District II	6. Protected Lands District

The Town of Mendon additionally has two overlay districts:

1. Flood Hazard Overlay District	2. Ridgeline Overlay Zoning District
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Section 202 - Zoning Map

- (a) The location and boundaries of Zoning Districts and the location of ridge lines are established as shown on the Town's Official Zoning Map. The latest adopted Official Zoning Map is hereby made a part of these regulations, together with all future amendments.
 - (1) The overlay districts address special siting, use, and compatibility standards in addition to those required in the underlying zoning districts. Where overlay districts impose greater standards than those required by the zoning district, the more restrictive standard shall apply.
- (b) Regardless of the existence of additional zoning maps which may from time to time be made or published, the Official Zoning Map shall be located in the office of the Town Clerk. This map shall be the final authority as to the current zoning status of land and water areas. The Official Zoning Map may be amended as an official zoning amendment in accordance with 24 V.S.A. Chapter 117.
- (c) See Section 309 for areas of special flood hazard and Section 310 for Ridgeline Overlay.

See Appendix for a copy of the zoning map.

Section 203 - Interpretation of Zoning District Boundaries

- (a) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the Zoning Administrator ("ZA") shall make a decision based on the preponderance of evidence available and inform the applicant of their right to appeal the ZA's decision to the Zoning Board of Adjustment ("ZBA"). In making this decision, the following rules shall apply in the following order:
 - (1) A survey of land certified by a professional surveyor licensed in Vermont shall mark the official boundary of any lot so certified.
 - (2) Boundaries indicated as approximately following the center lines of roads, streams, transportation and utility rights-of-way shall be construed to follow such center lines.
 - (3) Boundaries as indicated as approximately following the lot lines in existence when the Official Map was drawn shall be construed to follow such lot lines.
 - (4) Boundaries indicated as following the Town of Mendon's municipal limits shall be construed as following the Town of Mendon's municipal limits.
 - (5) Boundaries indicated as parallel to or extensions of features in Subsections (2) through (4) above shall be so construed.
- (b) Where a lot extends into two (2) or more zoning districts within the lot, the Zoning Board of Adjustment may permit, as a variance, an extension of the less restrictive regulations for either portion of the lot into the remaining portion of the lot.

ARTICLE III: ZONING DISTRICT REGULATIONS

Section 301 - Prohibited Uses

(a) To further the purposes of these regulations, and to further clarify other sections and provisions contained herein, the following uses shall be expressly prohibited in the Town of Mendon:

- (1) Dumping, storing, burying, reducing, disposing of or burning garbage, refuse, scrap metal, rubber, offal or dead animals, except such as result from the normal use of the premises if not a public nuisance, and except municipal collection sites.
- (2) Salvage yard. "Salvage yard" means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- (3) Dumping, storing, or burying junk. "Junk" means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.
- (4) More than one junk motor vehicle within view of any public or private road, except where in view from a private road serving only one (1) residence. "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.
- (5) Use of basement of an uncompleted structure, wholly or partially below the grade of the lot upon which it is located, for dwelling purposes.
- (6) Bulk petroleum or petroleum products stored in liquid form for sale in tanks above ground, or below ground, except for gas stations.
- (7) Distilling of bones, fat or glue or gelatin manufacturing.
- (8) Occupancy of travel trailers or other dwellings not connected to a permitted wastewater system for dwelling purposes.
- (9) Placing or keeping of more than three unregistered motor vehicles, uninspected motor vehicles, scrap metal, appliances, waste, or other junk within view of any public or private road, excepting driveways serving only one (1) residence.

(b) Uses not listed as exempt, permitted or conditional in Sections 303- 310, 417, or 111 are prohibited, except that a use not listed may be allowed if the following conditions are met:

- (1) The proposed use is not one of the uses listed as prohibited in Section 301 (a); and
- (2) The proposed use is similar in impact to a use that is expressly allowed (either as a permitted or conditional use) in the district where it is proposed.

(c) If both conditions in Section 301 (b) are met,

- (1) The Planning Commission may approve the proposed use as a permitted through site plan review if it is similar in impact to a use that is allowed as a permitted use in the district.
- (2) The Zoning Board of Adjustment may authorize the proposed use as a conditional use if it is similar in impact to a use that is allowed as a conditional use in the district.

Section 302 - Permitted and Conditional Use Description

- (a) (a) Sections 303 - 310 of these regulations summarize the regulations for each of the Zoning Districts which are established in Article II and shown on the Official Zoning Map.
- (b) Permitted Uses are those for which a zoning permit will be granted if they meet the dimensional requirements and site plan review requirements, if necessary.
- (c) Conditional Uses are those for which a zoning permit will be granted if they meet the dimensional requirements and the conditions listed for that use or area as specified in these regulations.
- (d) Planned Unit Development may be permitted in the Village, Commercial and Residential Districts in accordance with the standards of Article VIII.
- (e) No zoning permit in any zoning district shall be required for the activities in Section 111.
- (f) An application for a change in a property's current use shall be subject to the same level and process of review as it would have as an initial application.

Section 303 - Village District

- (a) Purpose and Description: This area of western Mendon is the most intensively developed part of town and contains several historic buildings and exists between Town Line Road and Medway Road. Current land uses include a mixture of residential, commercial, agricultural, and public uses. The intent of the regulations for this district is to continue a mixed-use, moderate to high-density area, and to prevent traffic and parking problems from intensifying, by encouraging combined or multi-lot access points and other measures.

- (b) **Permitted Uses (permit from Zoning Administrator required):**

- (1) Accessory dwelling units (see Section 603)
- (2) Accessory structures and uses (see Section 601)
- (3) Family child care home serving no more than six full-time children (see Section 605)
- (4) Home occupations (see Section 602)
- (5) Residential care and group homes serving not more than 8 persons (see Section 604)
- (6) Residential, one and two family dwellings
- (7) Windmills, household scale (see Section 610)
- (8) Temporary mobile businesses from cars, trucks, trailers or retail stands (see Section 606(b))

- (c) **Permitted Uses (Site Plan Review by Planning Commission required):**

(1) Adult day care facility	(11) Hotel, motel, lodge
(2) Bank, financial services business	(12) Animal day care
(3) Bed and breakfast	(13) Planned Unit Development (see Art. VIII)
(4) Churches and other places of worship, convents, and parish houses	(14) Post office
(5) Community center	(15) Private club
(6) Community owned and operated institution and facility	(16) Professional office
(7) Family childcare home or facility serving more than six full-time children (see Section 605)	(17) Public assembly
(8) Funeral home and crematorium	(18) Recreational facility
(9) Hazardous waste management facility which a notice of intent to construct has been received under 10 VSA Section 6066a	(19) Regional Solid Waste Management facility certified under 10 VSA Chap. 159
(10) Hospital (public or private) and nursing care facility	(20) Residential multi-family
	(21) Restaurant, bar, tavern, snack bar
	(22) Retail establishment
	(23) School (public and private) and other educational institutions certified by the State Agency of Education

(24) State owned and operated institutions and facilities

(d) Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):

- (1) Any structure(s) listed under Section 303(c) with a footprint larger than 10,000 sq. ft.
- (2) Cemetery
- (3) Light industry (see Section 612)
- (4) Mobile Home Park (see Section 613)
- (5) Sand and gravel pit (see Section 611)
- (6) Solar Array (see Section 620)
- (7) Gas Stations

(e) Dimensional Requirements:

Min. Overall Lot Size	Max. Dwelling Units Per Acre	Min. Lot Frontage	Front Yard Setback
0.75 acre (on-site sewer) 1/2 acre (pipeline)	2 (on-site sewer) 5 (pipeline)	100'	40'
Min. Side Yard	Min. Rear Yard	Max. Bldg. Height	Max. Impervious Surface
15' [a]	20' [a]	the lesser of 30' or 3 stories	40%

[a] Minimum setback, except applicable under Section 303 (g)(4).

(f) Miscellaneous Requirements:

- (1) The number of new access points onto Route 4 should be minimized by use of shared driveways, frontage roads, or other means.
- (2) Parking should be located behind or beside buildings where possible.
- (3) Each lot or use shall have a strip of land at least fifteen feet in width in the front yard and at least ten feet in width in the rear and side yards which shall be maintained as a landscaped area.
- (4) Where any land use abuts land of any residential district, the setback requirements of that parcel shall be maintained as a landscaped area in the front yard, side yards and rear yard which adjoin these districts.

Section 304 - Commercial District

(a) Purpose and Description: The Commercial District is a portion of Mendon along Route 4, east of the junction of Route 4 with Journey's End to the eastern Town line. It extends 500 feet back from the highway right-of-way, unless otherwise indicated on the Zoning Map. The purpose of the Commercial District is to allow for commercial-oriented growth, while maintaining the scenic qualities of Route 4.

(b) Permitted Uses (permit from Zoning Administrator required):

- (1) Accessory dwelling units (see Section 603)
- (2) Accessory structures and uses (see Section 601)
- (3) Family child care home serving no more than six full-time children (see Section 605)
- (4) Home occupations (see Section 602)
- (5) Residential care and group homes serving not more than 8 persons (see Section 604)
- (6) Residential, one and two family dwellings
- (7) Windmills, household scale (see Section 610)
- (8) Temporary mobile businesses from cars, trucks, trailers or retail stands (see Section 606(b))

(c) Permitted Uses (Site Plan Review by Planning Commission required):

- (1) Adult day care facility
- (2) Bed and breakfast
- (3) Churches and other places of worship, convents, and parish houses
- (4) Community owned and operated institution and facility
- (5) Family childcare home or facility serving more than six full-time children (see Section 605)
- (6) Hospital (public or private) and nursing care facility
- (7) Horse boarding
- (8) Hotel, motel, lodge
- (9) Recreational facility
- (10) Planned Unit Development (see Art. VIII)
- (11) Professional office
- (12) Professional services
- (13) Public assembly
- (14) Recreational facility
- (15) Restaurant, bar, tavern, snack bar
- (16) Retail establishment
- (17) School (public and private) and other educational institutions certified by the State Agency of Education
- (18) State owned and operated institutions and facilities

(d) Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):

- (9) Any structure(s) listed under Section 304(c) with a footprint larger than 20,000 square feet
- (10) Light industry (see Section 612)
- (11) Multi-family residential (see Section 615)
- (12) Sand or gravel pit (see Section 611)
- (13) Solar Array (see Section 620)
- (14) Gas Stations

(e) Dimensional Requirements:

Min. Overall Lot Size	Max. Dwelling Units Per Acre	Min. Lot Frontage	Front Yard Setback
1 acre (on-site sewer) 0.75 acre (pipeline)	3 (on-site sewer) 5 (pipeline)	150	50'
Min. Side Yard	Min. Rear Yard	Max. Bldg. Height	Max. Impervious Surface
15' [a]	20' [a]	50' or 4 stories, the lesser of	50%

[a] Minimum setback, except as applicable under Section 304 (g)(4).

(f) Miscellaneous Requirements:

- (1) Height of building should blend with the terrain of the land and not have an undue adverse effect on mountain views and scenic vistas beyond the building.
- (2) Development shall take place so as to minimize disturbance of the traffic flow. Shared driveways and entrances or frontage roads will be required where feasible.
- (3) Each lot or use shall have a strip of land at least fifty feet in the front yard and at least ten feet in width in the rear and side yards which shall be maintained as a landscaped area or left in a natural vegetated state.
- (4) Where any land use abuts land of any residential district, the setback requirements of that parcel shall be maintained as a landscape area in the side yards and rear yard which adjoin these districts.
- (5) It is preferable that parking be located behind or beside buildings.

Section 305 - Residential District I

(a) **Purpose and Description:** The Residential District I contains most of the land in the Town Line Road corridor. (an area which is generally not served by a public sewer system), the Notch Road/South Mendon Road Corridor (an area generally not served by a public sewer system), and contains land in the Robinwood Development which borders the Mendon/Killington town line (an area generally served by a public sewer system).

(b) **Permitted Uses (permit from Zoning Administrator required):**

- (1) Accessory dwelling units (see Section 603)
- (2) Accessory structures and uses (see Section 601)
- (3) Family child care home serving no more than six full-time children (see Section 605)
- (4) Home occupations (see Section 602)
- (5) Residential care and group homes serving not more than 8 persons (see Section 604)
- (6) Residential, one and two family, so long as two family unit is owner-occupied
- (7) Windmills, household scale (see Section 610)

(c) **Permitted Uses (Site Plan Review by Planning Commission required):**

- (1) Bed and breakfast
- (2) Family childcare home or facility serving more than six full-time children (see Section 605)
- (3) Planned Unit Development (see Art. VIII)
- (4) Recreational facility

(d) **Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):**

- (1) Multi-family residential (see Section 615)
- (2) Sand and gravel pit (see Section 611)
- (3) Solar Array (see Section 620)

(e) **Dimensional Requirements:**

Min. Overall Lot Size	Max. Dwelling Units Per Acre	Min. Lot Frontage	Front Yard Setback
0.75 acres	2	[a]	50'
Min. Side Yard	Min. Rear Yard	Max. Bldg. Height	Max. Impervious Surface
25'	25'	30' or 3 stories the lesser of	50%

[a] 65 feet per acre but in no event shall more than 500 feet be required.

Section 306 - Residential District II

(a) **Purpose and Description:** The Residential District II contains most of the land which is north of Route 4 (served by Meadow Lake Drive, Journey's End, Cream Hill Road, and Old Turnpike Road), and land south of Route 4 served by Woodward Road). This is an area which is generally not served by a public sewer system.

(b) **Permitted Uses (permit from Zoning Administrator required):**

- (1) Accessory dwelling units (see Section 603)
- (2) Accessory structures and uses (see Section 601)
- (3) Family child care home serving no more than six full-time children (see Section 605)
- (4) Home occupations (see Section 602)
- (5) Residential care and group homes serving not more than eight persons (see Section 604)
- (6) Residential, one and two family, so long as two-family is owner-occupied

(7) Windmills, household scale (see Section 610)

(c) Permitted Uses (Site Plan Review by Planning Commission required):

- (1) Bed and breakfast
- (2) Family child care home or facility serving more than six full-time children (see Section 605)
- (3) Golf Course
- (4) Planned Unit Developments (see Article VIII)
- (5) Recreational Facility

(d) Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):

- (1) Multi-family residential (see Section 615)
- (2) Sand and gravel pit (see Section 611)
- (3) Uses subject to Section 617: Permitted Commercial District Uses in Residential District II
- (4) Solar Array (see Section 620)

(e) Dimensional Requirements:

Min. Overall Lot Size	Max. Dwelling Units Per Acre	Min. Lot Frontage	Front Yard Setback
2 acres	1 unit per 2 acres	[a]	50'
Min. Side Yard	Min. Rear Yard	Max. Bldg. Height	Max. Impervious Surface
25'	50'	30' or 3 stories the lesser of	50%

[a] 65 feet per acre but in no event shall more than 500 feet be required.

Section 307 - Rural District

(a) Purpose and Description: The Rural District is generally portions of Mendon served by Wheelerville Road, and privately-owned land north of Route 4 which is between the elevations of 2,000 and 2,500 feet. It is the intent of these regulations to minimize the need for new town services and to protect the land from erosion and intensive development in this area. As much of this area is in the Rutland City watershed, Mendon has a regional obligation to protect that watershed. The Wheelerville area is a popular place for residents of Mendon and the region to enjoy a wide variety of outdoor sports, and it is the intent of these regulations to maintain its remoteness to ensure its continued use as recreational open space.

(b) Permitted Uses (permit from Zoning Administrator required):

- (1) Residential, one and two family dwelling
- (2) Accessory structures and uses (see Section 601)
- (3) Accessory dwelling unit (see Section 603)
- (4) Home occupations (see Section 602)
- (5) Noncommercial recreation
- (6) Windmills, household scale (see Section 610)

(c) Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):

- (1) Bed and breakfast
- (2) Family child care home (see Section 605)
- (3) Residential care and group homes serving not more than 8 persons (see Section 604)
- (4) Solar Array (see Section 620)

(d) **Dimensional Requirements:**

Min. Overall Lot Size	Max. Dwelling Units Per Acre	Min. Lot Frontage	Front Yard Setback
3 acres	1 unit per 3 acres	[a]	50'
Min. Side Yard	Min. Rear Yard	Max. Bldg. Height	Max. Impervious Surface
25'	50'	12' or 2 stories the lesser of	30%

[a] 65 feet per acre but in no event shall more than 500 feet be required.

Section 308 - Protected Land District

(a) **Purpose and Description:** The Protected Land Districts includes areas owned by federal, state, and local governmental entities (including but not limited to Rutland City Forest, Coolidge State Forest, Jeffords State Forest, Aitken State Forrest and Green Mountain National Forest) and the land along Route 4 between the Village District and The Commercial District.

(b) **Permitted Uses (permit from Zoning Administrator required):**

- (1) Accessory dwelling unit (see Section 603)
- (2) Accessory structures and uses (see Section 601)
- (3) Home occupations (see Section 602)
- (4) Non-commercial recreation
- (5) Windmills, household scale (see Section 610)

(c) **Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):**

All uses in this subsection shall be subject to the provisions of Section 616 (Structures in Sensitive Development Areas) in addition to any use-specific standards set forth in these regulations.

- (1) Family child care home (see Section 605)
- (2) Residential care and group home serving not more than 8 persons (see Section 604)
- (3) Residential, one family - including seasonal camps
- (4) Solar Array (see Section 620)

(d) **Dimensional Requirements:**

Min. Overall Lot Size	Max. Dwelling Units Per Acre	Min. Lot Frontage	Front Yard Setback
15 acres	1 unit per 15 acres	[a]	100'
Min. Side Yard	Min. Rear Yard	Max. Bldg. Height	Max. Impervious Surface
100'	100'	12' or 2 stories the lesser of	10%

[a] 65 feet per acre but in no event shall more than 500 feet be required.

(e) Miscellaneous Requirements:

- (1) Height of building should blend with the terrain of the land and must not have an undue adverse effect on mountain views and scenic vistas beyond the building.
- (2) Development shall take place so as to minimize disturbance of the traffic flow. Shared driveways and entrances or frontage roads shall be required where feasible.
- (3) Each lot shall maintain at least fifty feet of a natural vegetated state between any road and any clearing or development.
- (4) All petroleum products, propane, and fuel oil shall be stored in containers that meet current State and federal laws and regulations.

Section 309 - Flood Hazard Overlay District

(a) **Description:** Areas of special flood hazard in the Town of Mendon are those identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), the Federal Emergency Management Agency (FEMA), and the National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.

Note: In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from state or federal agencies or other sources, such as by field surveys, shall be obtained and utilized to administer and enforce these regulations.

(b) **Applicability:** The Flood Hazard Overlay District shall be superimposed over any other zoning districts. All lands to which the Flood Hazard Overlay District applies must meet the requirements of the underlying zoning districts and the Flood Hazard Overlay District. When there is a conflict between the underlying zoning district and the Flood Hazard District, the more restrictive regulation shall apply.

- (1) In the Flood Hazard Overlay District, the term "Structure" means, a walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks. Structure, for insurance purposes, means:
 - a. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
 - b. A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
 - c. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

- (2) Permit from Agency of Natural Resources - Any development requires a Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal and shall be filed as a required attachment to the Town permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and attached to the permit before work can begin.

(c) Purpose:

- (1) Minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and other flood related hazards;
- (2) Ensure that the design and construction of development in flood and other hazard areas is accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property;

- (3) Manage all flood hazard areas designated pursuant to 10 V.S.A. § 753; and
- (4) Make the state, municipalities, and individuals eligible for federal flood insurance and other federal disaster recovery and hazard mitigation funds as may be available.

(d) **Exempt Uses (no permit required):**

Required Agricultural Practices ("RAP") (see Section 111) and Accepted Silviculture Practices (see Section 111) are exempt from regulation, provided that they:

- (1) Do not require the erection of structures, storage of materials and equipment;
- (2) Do not require importing fill from outside the flood hazard area;
- (3) Do not require channel modification or relocation;
- (4) Do not obstruct flood flows;
- (5) Do not increase the flood level within the floodway during the occurrence of the base flood;
- (6) Do not increase off-site flood damage potential; and,
- (7) Do not propose the construction of water supply, sanitary sewage or on-site waste disposal systems.

Violations of the RAP are subject to enforcement under applicable Vermont law including, but not necessarily limited to, the provisions of 6 VSA § 4812. Such violations in the special flood hazard area and fluvial erosion hazard zone shall be immediately reported to the Secretary of Agriculture for enforcement, and a copy of the report shall be sent to the VT DEC NFIP Coordinator.

(e) **Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required):**

All uses listed as permitted or conditional in the underlying district shall be considered as conditional uses in the flood hazard overlay district.

(f) **District Specific Conditions:**

(1) In all Floodway Areas:

- a. Junkyards and storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.
- b. Development within the regulatory floodway is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, by a registered professional engineer, certifying that the proposed development will result in no increase in flood levels during the occurrence of the base flood.
- c. In areas where no regulatory floodway has been designated by the National Flood Insurance Program, development shall be prohibited, unless a technical evaluation is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(2) In all Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway), the Zoning Board of Adjustment shall require, as a condition of approval that:

- a. All development shall be designed to (i) minimize flood damage within the flood-prone area and to public facilities and utilities, and (ii) to provide adequate drainage to reduce exposure to flood hazards.
- b. All development shall be reasonably safe from flooding and be: (i) designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure during the occurrence of the base flood, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damage, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- c. The flood carrying capacity within any altered or relocated portion of a watercourse be maintained.
- d. New and replacement water supply and sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- e. On-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
- f. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a minimum of one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.
- g. Manufactured homes to be placed and existing manufactured homes to be substantially improved that are located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.
- h. Any proposed development within the floodway will not result in any increase in flood levels during the occurrence of the base flood.
- i. New residential construction and existing residential buildings to be substantially improved have the lowest floor (including basement) elevated at least one foot above the base flood elevation.
- j. New non-residential construction shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
- k. Existing buildings to be substantially improved for non-residential purposes located shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed such that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- l. A permit for a building proposed to be flood-proofed shall not be issued until a registered professional engineer or architect, provided at the expense of the applicant, has reviewed the structural design, specifications and plans and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- m. All new construction and existing buildings to be substantially improved with fully enclosed areas below the lowest floor that are subject to flooding be 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 professional engineer or architect at applicant's cost or meet or exceed the following minimum criteria: 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 shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- n. Enclosed areas below the lowest floor which are subject to flooding shall be used solely for the parking of vehicles, building access, or storage

- o. Recreational vehicles placed on sites in special flood hazard areas shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the requirements of subsection 309(f)(2)(F).
- p. A small accessory building that represents a minimal investment need not be elevated to the base flood elevation provided the building:
 - i. Shall not be used for human habitation;
 - ii. Shall be designed to have low flood damage potential;
 - iii. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - iv. Shall be firmly anchored to prevent flotation; and,
 - v. Shall have service facilities such as electrical and heating equipment elevated or flood proofed.

(g) Other Provisions:

- (1) **Flood Insurance:** Structures that are built with loans or other federal investments will be required to obtain flood insurance. A structure built below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Failure to obtain a permit for development in the Special Flood Hazard Area may jeopardize the participation of the town in the National Flood Insurance Program.
- (2) **Nonconforming Structures and Uses:**
 - a. Nonconforming structures in the Special Flood Hazard Area that are destroyed or substantially damaged may be reconstructed in circumstances when the structure cannot be relocated to a less hazardous location on the parcel, when the lowest floor of the reconstructed structure is rebuilt to one foot or more above the base flood elevation, and the structure is otherwise in compliance with all requirements of the National Flood Insurance Program.
 - b. Nonconforming structures or uses shall be considered abandoned where such structures or uses are discontinued for more than 12 months. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of a nonconformity. Replacement manufactured homes must be placed so as to meet the Development Standards in these regulations.
 - c. Nothing in this section shall be construed to restrict the authority of the town to abate public nuisances or to abate or remove public health risks or hazards.

Section 310 - Ridgeline Overlay District

The Ridgeline Overlay District is hereby established within the Town of Mendon. The District shall include the two areas described below:

RIDGELINE AREA: This shall consist of all lands within 300 horizontal feet of lines depicting the primary ridges in the Town of Mendon, as shown on the official Ridgeline Overlay District Map on file in the Mendon Town Office.

300 FOOT ELEVATION AREA: This shall consist of 300 foot elevation contours downslope from the lowest point of a mountain ridge located in the Ridgeline Overlay District, as shown on the aforesaid Ridgeline Overlay District Map.

Section 310(1) - Purpose

The undeveloped ridgelines and hillsides of Mendon are exceptional aesthetic and scenic resources that significantly contribute to the Town's extraordinary scenic quality as well as to its rural, pastoral heritage.

It is in the public good and welfare to protect the rural and pastoral character of Mendon by preserving and conserving Mendon's ridges and hillsides from unregulated land development.

Mendon's rural character and scenic beauty will be protected by ensuring that a forested ridgeline remains uninterrupted, and free of unregulated manmade structures.

It is the purpose of this regulation to permit the Town of Mendon to regulate land development visible from a Town road within the District.

Following are the reasons for specifying the two areas which comprise the Ridgeline Overlay District:

- (a) **Ridgeline Area.** To protect the rural and scenic character of Mendon by protecting and preserving the aesthetic and scenic character of the Town's primary ridgelines and hillsides.
- (b) **300 Foot Elevation Area.** To protect the lower elevations downslope from the ridgeline district.

Section 310(2) - Objectives

- (a) Mendon's Ridgeline Overlay District is intended to protect and preserve the aesthetic and scenic qualities of the Town's primary ridgelines and hillsides. This District is primarily forested, but meadows and pastures have, in the past, dotted the landscape and contributed to the rural, pastoral character of the Town. This regulation is not intended to prohibit land development within the District but, rather, to ensure that such development is situated and designed to avoid an undue adverse impact on this valuable scenic landscape.
- (b) Mendon's Ridgeline Overlay District is also intended to minimize structural intrusions upon the visual landscape and to maintain the rural character of the Town. This regulation provides standards for regulating the height, design, placement and impacts of structures on lands that lie within the designated Ridgeline Overlay District and driveways/roads that provide access to these structures.

Section 310(3) - Ridgeline Plan Approval

- (a) **Prohibition Without Approval:** Notwithstanding any other provision in this regulation, except as provided in Subsection 3 below, no land development, including site preparation, shall take place in the Ridgeline Area or the 300 Foot Elevation Area without the Zoning Board of Adjustment's Conditional Use Approval of a Site Development Plan as specified in Subsection 310(4). If a question arises regarding whether a proposed development is within the Ridgeline Overlay District, the Zoning Board of Adjustment shall, upon request, make such determination, following public notice and hearing. The burden of proof shall lie with the requesting landowner.

Where overlapping with other districts occurs, the more restrictive rules take precedence.

All other zoning requirements that apply to land development shall be reviewed concurrently with this regulation.

- (b) **Land Development Defined:** For purposes of this section, land development shall be defined as any of the following:
 - (1) Construction or placement of any structure, excluding those related to agricultural uses or otherwise excluded by Vermont statute;
 - (2) Alteration that involves an increase in height of the building or structure;
 - (3) Addition or alteration of skylights, solar panels, windows or other reflective surfaces;
 - (4) Construction or modification of an access road or driveway, excluding normal driveway maintenance;
 - (5) Construction of a tower, satellite dish (larger than 40 inches across) or any other type of antenna;
 - (6) Construction of a windmill, wind turbine or any other instrument to make use of the wind; or
 - (7) Installation of public utility lines, including creation or widening of cleared portions of a right-of-way related to proposed or existing public utility lines.

(c) The Ridgeline Overlay District shall not affect:

- (1) Any land development that is not visible from designated vantage points as defined in Subsection 310(6);
- (2) Any existing or future development of land (except access roads or driveways) that begins within three hundred and fifty (350) feet from the center line of a public highway;
- (3) Routine forestry management;
- (4) Pasture restoration and agricultural uses (including construction of roads to access woods or fields);
- (5) Modification and expansion of an existing residential or non-residential structure if such alteration is clearly subordinate in impact and size (less than 25%) to the original structure;
- (6) A structure for agricultural or forestry use; or
- (7) An un-heated non-residential structure less than 64 sq. ft. that does not break the skyline.

Section 310(4) - Ridgeline Plan Materials

(a) Application Materials: In addition to other procedures and materials required under Sections 1003 and 903 and any other provisions of the Town's Zoning Regulations that apply to the proposed development, an application for development within the Ridgeline Overlay District shall include the following:

- (1) Application for Zoning Permit, completed, signed and dated by the landowner/applicant.
- (2) An appropriate section of the Ridgeline Overlay District Map showing the location of all proposed site disturbance within the Ridgeline Overlay District.
- (3) A narrative describing the extent and type of development proposed.
- (4) USGS Topographic Map or Survey showing the location of proposed structures and other site disturbances associated with the proposed development.

(b) Site Development and Design Plans: Two complete sets of plans, one of which shall be on paper not smaller than 18" by 24" and the second set shall be on paper not larger than 11" by 17." Such plans must provide information necessary to thoroughly review the proposed project, and at a minimum, shall clearly depict:

- (1) Design and height of all structures, including elevations, building and roofing materials, exterior colors and fenestration,
- (2) Location and overall design of proposed development, including roadways, drawn in an appropriate scale, with topographical contours set at 20" intervals or less,
- (3) Location, type and height of all proposed exterior lighting,
- (4) Existing and proposed forested and open areas,
- (5) Proposed landscaping showing where trees will remain, be thinned, or removed, and, if available, a forest management plan,
- (6) Location and description of proposed utilities, water supply and on-site waste disposal system,
- (7) Any other information relevant to the proposed development and its site.

(c) Supplemental Materials: In addition to the requirements listed above, the Zoning Board of Adjustment may require one or more of the following plans when the impact cannot be reasonably determined:

- (1) Grading Plan: Existing and proposed contours of land to be cleared to a distance of at least fifty feet beyond the cleared areas, or greater if necessary to show the relationship of the development to the surrounding terrain. When site conditions warrant, field generated contours, at intervals to be determined, may be required. The plan shall also show the location of all existing and proposed retaining walls over three feet in height.
- (2) Lighting Plan: Location, type and height of all exterior lighting, including security lighting, is to be shown on the Site Development and Design Plan Lighting studies may be required and would include photometric analyses of exterior lighting and nighttime visual impact of interior lighting.
- (3) Visibility Studies: Viewshed analyses, computer-assisted photo simulation, line of site sections, site photography and/or other means to assess the potential visual impact of the proposed development.
- (4) Architectural Plans and Renderings: Building design drawings, drawn to scale, clearly depicting all proposed structures, their location on the parcel, including the proposed grade of the building area and finished floor elevations. Drawings should clearly display architectural design
- (5)

as well as those elements required in Subsection 310(4)(2), e.g., elevations, building and roofing materials, exterior colors and fenestration.

(6) Landscape/Forestry Management Plan: In addition to that required in the Site Development Plan, a more detailed plan may be required that shows existing vegetation and proposed landscaping and clearing, including type, size and location of all vegetation to be preserved and/or installed, along with other landscaping elements such as gazebos, berms, fences, walls, etc. Special attention should be given to existing/proposed vegetation adjacent to buildings for visibility and screening purposes (within at least 30 feet). A plan for the maintenance of the existing and proposed landscape should be included. Such a plan shall address specific measures to be taken to ensure the protection and survival and, if necessary, replacement of designated trees during and after construction and/or installation of all site improvements.

(7) Access Plan: A plan depicting existing and proposed roads and parking areas that include road profiles and slopes of proposed access routes.

Section 310(5) - Ridgeline Plan Procedure

(a) Zoning Administrator. Upon receipt of an application that meets all requirements of Subsection 310(4), the Zoning Administrator shall refer the application to the Zoning Board of Adjustment.

(b) Board Review Committee. Within fifteen (15) days following receipt of such an application, the Zoning Board of Adjustment shall appoint a Board Review Committee, which shall consist of 3 members of the Zoning Board of Adjustment. The Board Review Committee shall hold a meeting to determine whether the proposed development will be visible from any vantage point as defined in Subsection 310(6). A site-visit may be required prior to the meeting. To aid in such determination, the Board Review Committee may request any of the supplemental materials listed under Subsection 310(4)(2). The Board Review Committee's review of the application may be continued pending receipt of those materials and notice of such continuation shall be promptly provided to the Zoning Board of Adjustment.

Land development that will not be visible from such vantage points is exempt from this regulation and, upon such finding, the Board Review Committee shall so report to the Board, which may direct that the application proceed under Section 1003 and other sections of the Zoning Regulations that apply to the parcel proposed for development.

If the proposed development will be visible from designated vantage points, the Board Review Committee shall:

- (1) Determine the number of affected vantage points, the volume of traffic using the affected roads or highways, the length of time that a project would be visible to motorists, and the project's distance from affected vantage points.
- (2) Determine whether the proposed land development is in accord with all standards set forth in Subsection 310(6).
- (3) Prepare a report for the Zoning Board of Adjustment stating how the proposed land development meets or fails to meet the standards set forth in Subsection 310(6). The Board Review Committee shall issue its report to the Zoning Board of Adjustment within 60 days of the first Board Review Committee meeting, unless the meeting is continued by mutual consent.
- (4) Include in the report all appropriate comments and recommendations relative to the standards for approval listed under Subsection 310(6).
- (5) Meet with the applicant at his or her option to review the report. The Board Review Committee and the applicant may continue this meeting upon mutual consent. All changes agreed to by the applicant shall be appended to the Board Review Committee's final report and recommendation.
- (6) Mail to the applicant a copy of the Committee's report and recommendation and promptly transmit a copy to the Zoning Board of Adjustment.

(c) Zoning Board of Adjustment. Within fifteen (15) days of receiving the Board Review Committee's report, the Zoning Board of Adjustment shall warn a public hearing. As part of the hearing, the Zoning Board of Adjustment shall review and consider the Board Review Committee's recommendations, the application materials required by Subsection 310(4), any supplemental plans requested by the Board Review Committee, and testimony of the applicant and other interested parties. Before making a final determination, the Board may require a site-visit and/or supplemental plans, in which case the hearing will be continued following conducting the site-visit and/or

receiving the supplemental plans.

Notwithstanding the Board Review Committee's recommendation, the applicant shall have the primary responsibility of presenting the proposal to the Zoning Board of Adjustment and shall have the burden of proof to establish that the proposed development meets all standards of Subsection 310(6).

Upon close of testimony, the Zoning Board of Adjustment shall determine whether the proposed development is in accord with all standards set forth in Subsection 310(6). and issue a written decision granting or denying the application. The decision may be issued with or without conditions. The Zoning Board of Adjustment shall render its decision within 45 days from the close of testimony.

- (d) The failure of the Board Review Committee to prepare its report, or failure by the Zoning Board of Adjustment to issue its decision within the time and in the manner so specified shall constitute an automatic approval of the application under consideration, and the Zoning Administrator shall so certify in writing to the applicant. This section refers only to Ridgeline Overlay District plan approval required hereunder and not to other applicable zoning requirements.
- (e) Nothing herein shall be construed to prohibit the modification, extension, or waiver of any time or notice provision herein where written mutual agreement has been made between the Zoning Board of Adjustment and the applicant.

Section 310(6) - Standards for Approval

Before approving land development in the Ridgeline Overlay District, the Zoning Board of Adjustment shall find that the proposal conforms to the following standards.

- (a) General Standards: To protect the unique visual and aesthetic qualities of those areas within Mendon's Ridgeline Overlay District, especially those characterized by unbroken ridgetops and other significant focal points, all development shall be designed and sited in a manner that does not cause undue adverse impact to the scenic landscape of the town. "Undue adverse impacts" indicate that a proposed development violates one or more of the standards set forth in these regulations.
- (b) Designation of Vantage Points: For the purposes of this regulation, vantage points shall be any point on a Class I or Class II public road or highway and/or any two points at least 500 feet apart on a Class III public road, from which the proposed development will be visible. In reviewing projects to determine compliance with these standards and to help identify appropriate mitigation measures, the Zoning Board of Adjustment shall consider the relative importance of the vantage points from which the project is visible. Such consideration shall include the number of affected vantage points, the volume of traffic using the affected roads or highways, the length of time that a project would be visible to motorists, and the project's distance from affected vantage points.
- (c) Specific Standards: The following standards shall serve as the basis for guiding development within the Ridgeline Overlay District without an undue adverse visual impact. These standards reflect the community's concerns in regard to the Town's hillsides and ridgelines. These standards also express the development and design intentions of this District. All development within this District shall comply with these standards. In designing land development to be sited in the Ridgeline Overlay District, applicants should review Section 310(7) for suggestions to mitigate adverse visual impacts within this Overlay District.
 - (1) Standard 1. Pre-construction or site preparation activities shall not be allowed and shall be subject to ZBA/BRC review. Pre-development clearing or grading plans for construction sites, roadways, waste disposal systems or other development-related activity shall be reviewed by the Zoning Board of Adjustment prior to commencement of these activities.
 - i. Prior to any site disturbance or construction-related activity, the landowner should review their plan with the Zoning Administrator to ensure activities are consistent with the standards set forth in this Subsection 310(6).

(2) Standard 2. Development shall not serve as a visual focal point. All development shall be minimally visible. The mass, height, color and location of all development, including roadways and parking areas, shall be designed to blend in with the surrounding landscape and to avoid visibility in winter months. Additional tree planting may be required to preserve the appearance of an unbroken forested canopy and/or to interrupt visibility of structures from defined vantage points.

- i. Natural landforms and existing vegetation should be used to screen visibility from public roads.
- ii. Alternate locations may be required for structures, access roads and utility lines when no other concealment options are available to minimize visibility.

(3) Standard 3. Development shall not visually break the skyline. No structure shall be located in a manner that would allow any part of it to visually exceed the skyline, which is defined as the natural ground outline of a hill or mountain located within the Ridgeline Overlay District when viewed from designated vantage points, unless additional tree plantings can be shown to preserve the appearance of an unbroken forest canopy and/or to interrupt visibility of structures from defined vantage points. Site disturbance or tree removal that creates gaps in the silhouette of the forested ridge top shall not be allowed, unless additional tree plantings can be shown to preserve the appearance of an unbroken forest canopy and/or to interrupt visibility of structures from defined vantage points. In the event additional tree plantings are a condition of approval, ongoing maintenance of the trees shall be required. In the event natural causes result in tree removal that cause gaps in the silhouette of the forested ridge top, the property owner shall replace the removed trees with similar trees.

- i. Structures shall not be sited on high points, outcroppings or prominent knolls within the project site.
- ii. Consider designing structures that conform to the topography such as multilevel structures with entrances on more than one level, such as walkout basements or garages under buildings.

(4) Standard 4. Development shall be harmonious with the surrounding landscape. The amount and location of clearing adjacent to structures and roadways shall be limited. Undeveloped hillside meadows, reminiscent of historic hillside pastures, may be created if the total clearing is less than five acres, clearing does not break or reveal the skyline and does not expose structures to view from designated vantage points.

- i. Clearing for scenic purposes should be limited with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings.
- ii. Clearing for scenic purposes should involve the selective cutting of small trees and the lower branches of large trees, rather than removing mature trees.
- iii. Where feasible and appropriate, existing trails or roads should be used, instead of constructing new roadways, to minimize clearing and disruption of the landscape and to relate to traditional and historic land use patterns.
- iv. Where new roadways must be constructed, they should follow natural contours and clearing of vegetation should be minimal.
- v. Using stone walls and hedgerows as property lines is recommended and existing stone walls and hedgerows should be preserved wherever possible.

(5) Standard 5. Development shall not create daytime glare or glow of the night sky. Exterior lighting shall comply with standards recommended in "Outdoor Lighting for Vermont Municipalities."

- i. The use of reflective surfaces and outdoor lighting fixtures should be minimized to limit the visibility of the development from off-site and reduce the impact of night-time lighting.
- ii. Large expanses of glass should be avoided.
- iii. Bollard, low post lighting and low level, indirect lighting are recommended.
- iv. Spot or flood lights and excessive security lighting shall be avoided. Use of the structures or existing trees and shrubs to provide shielding of light fixtures is recommended.

Section 310(7) - Mitigating Adverse Visual Impacts

In designing land development to be sited in the Ridgeline Overlay District, applicants can consider the following suggestions to mitigate adverse impact. The options for compliance are not limited to the ones below, but the applicant can use the list to aid in the design process.

(a) Site, design and lighting

- (1) Orient structures with the smallest façade facing vantage point(s)
- (2) Site building in a location with least visibility
- (3) Site buildings as far from ridge top as possible
- (4) Use natural/neutral colors
- (5) Reduce amount and size of fenestration, particularly skylights
- (6) Use non-reflective roofing materials
- (7) Minimize use of reflective glass
- (8) Limit exterior lighting to a bare minimum

(b) Landscaping and clearing

- (1) Cluster the buildings to reduce site disturbance
- (2) Minimize cutting of trees and natural vegetation
- (3) Add trees to better screen developed area
- (4) Minimize the size of the cleared site area
- (5) Do not cut any trees before you have your permit

(c) Access road, driveway, parking area, erosion/storm water control

- (1) Use existing farm, wood or abandoned roads
- (2) Place roadways along natural land contours
- (3) Minimize clearing on either side of road
- (4) Plant more trees to screen road
- (5) Keep parking area as small as possible

Section 310(8) - Conditions

The Zoning Board of Adjustment shall have authority to impose conditions consistent with the intent and objectives of this Section in approving a proposed plan for land development in the Ridgeline Overlay District. A notice of the approval with its conditions, along with notice that such conditions run with the land, shall be recorded in the Mendon Land Records. Continued compliance with all conditions shall be the obligation of the current and subsequent owners of the land and improvements.

ARTICLE IV: GENERAL REGULATIONS

Section 401 - Existing Small Lots

- (a) Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth (1/8) acre in area with a minimum width or depth dimension of forty (40) feet.
- (b) If a legally existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot, unless the lot meets all four of the following criteria:
 - (1) The lots are conveyed in their preexisting, nonconforming configuration.
 - (2) On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
 - (3) At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
 - (4) The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 V.S.A. chapter 64.

Section 402 - Performance Standards for all Activities

- (a) No land or building in any zoning district shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable conditions in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining properties. The following specific standards are set forth to implement this purpose. The burden of proof that the following standards are met shall be on the applicant.
 - (1) **Noise:** No noise which is detectable at or beyond the property line and which represents a significant increase in noise levels in the vicinity of the development so as to be incompatible with the reasonable use of the surrounding area shall be permitted.
 - (2) **Odor:** No emission of objectionable odor beyond the property line of a premises shall be discharged, caused, allowed or permitted.
 - (3) **Fly Ash, Dust, Fumes, Vapors, Gases, Other Forms of Air Pollution:** No emission, defined as a release of air contaminants into the ambient air space, shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property which can cause any excessive soiling, at any point on the property of others.
 - (4) **Vibration:** No vibration shall be permitted which shall cause or result in any noticeable, clearly apparent vibration of or on the property of another landowner under normal conditions. No blasting or other activities causing substantial vibration shall occur after 5pm or before 7am and only be allowed Monday through Friday. All proposed blasting shall require a permit from the Mendon Planning Commission and prior to applying for the permit, the applicant shall notify all abutting landowners about the proposed blasting and intent to obtain a permit. All applicants shall provide evidence of applicable state and federal permits as part of the application process.
 - (5) **Glare, Lights, Reflection:** No glare lights or reflection shall be permitted which are a nuisance to other property owners or tenants or which could impair the vision of a driver of any motor vehicle or which are detrimental to public health, safety and welfare.
 - (6) **Fire, Explosive, Health or Safety Hazard:** No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners or which results in a significantly increased burden on municipal facilities.

(7) **Stormwater Management:** No property improvement shall direct, divert, or maintain water flow so that damage or pollution is caused to other property by surface or subsurface waters. Stormwater management systems shall incorporate natural drainage systems; maximize on-site infiltration and treatment; and minimize surface runoff.

- i. Site clearing and disturbance, and on-site paving, roofing, and other impervious surfaces that increase surface water runoff and limit water infiltration and recharge shall be minimized. All runoff from impervious surfaces shall be diverted to areas covered with vegetation for surface infiltration.
- ii. Property owners shall not be required to divert, alter, or manage the natural flow of water.

(8) **Water and Wastewater:** All applicants shall provide applicable state permits for wastewater disposal and adequate water supply for the proposed development as part of the application.

(9) **Traffic:** Expected additional traffic flow generated by the proposed use to and from the site must not be beyond the capacity of nearby and feeder roads that will be impacted by the use and shall not cause an undue adverse impact on the character of the area.

- i. Reviewing a proposed development or use for this standard shall, at minimum, consider current traffic volumes; current traffic patterns and intersections in the vicinity of the proposed use; types of vehicles using the roads in question; the surface of the roads; proximity of existing buildings to the edge of the roads, and the location and fragility of sewer lines beside and/or under the roads.
- ii. An applicant may be required to submit a formal traffic study, paid for by the applicant and prepared by a licensed traffic engineer, that details the expected traffic effects of the proposal.
- iii. Traffic is also regulated in the Town of Mendon Subdivision Regulations.

(10) **Hazardous Conditions:** No land use or development shall result in hazard to public safety; the creation of an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests; trees and other plant life that dangerously obscure drivers' views or attract vermin; the placement of appliances, cars, and rubbish, waste and refuse that might constitute an attractive nuisance to children or attract vermin; or allows an abandoned or unoccupied property to be left in an unsecured manner.

Section 403 - Required Frontage

- (a) No land development may be permitted on lots which do not either have frontage on a public road or, access to such a road by a permanent easement or right-of-way at least twenty (20) feet in width.
- (b) In no case shall access be permitted without a written easement deed recorded in the land records.

Section 404 - Lots in Two Districts

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty (30) feet into the more restricted part, provided the lot has frontage on a street in the less restricted district, unless adjusted pursuant to Section 203(b)..

Section 405 - Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these regulations shall be smaller than herein prescribed for each district. The provisions of this Section shall not apply when part of a lot is taken for public purpose.

Section 406 - Yards on Corner Lots

Any yards adjoining a street shall be considered a front yard for the purposes of these Regulations and shall meet the minimum front yard requirements on each of the two fronting sides.

Section 407 - Obstruction of Vision - Corner Lots

In all districts, on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at points twenty-five feet away from their intersection, there shall be no obstruction to vision between the height of three feet and ten feet above the average grade of each street. The intent of this provision is to ensure drivers can see oncoming traffic, pedestrians, and potential hazards when approaching an intersection.

Section 408 - Reserved

Section 409 - Private Road Maintenance

All roads constructed shall be privately maintained unless established as a public highway pursuant to law.

Section 410 - Reserved

Section 411 - Destruction or Demolition of a Structure

- (a) A zoning permit is required for the destruction or demolition of a structure, to be applied for at least 30 days before the demolition date. No fee will be required for the permit.

Note: VT Department of Health requires advance notice from the owner or contractor prior to demolition of a structure.

- (b) In the event a structure has been destroyed or demolished, or a building under construction has been abandoned, all structural materials shall be removed from the site within 6 months of the destruction, demolition, or abandonment, unless the owner of the structure has applied for a permit for re-construction. Failure to comply shall constitute a zoning violation.

Section 412 - Landscaping

Where existing natural landscaping is not sufficient to limit the view by the abutting property of the new development, landscaping which is required in any district under these regulations for front, side, and rear yards shall take the form of some combination of regionally appropriate shade trees, deciduous shrubs, evergreens, or well-kept ground cover. All such landscaping shall be maintained in a healthy growing condition. See also minimum landscape requirements by district in Article III. Any landscaping that does not survive its first year may be required to be replaced by decision of the ZA, appealable to the ZBA.

Section 413 - Hiking Trail Buffers

A buffer of land not less than fifty (50) feet wide shall be established between hiking trails that are owned or managed by the town or by the State of Vermont and adjacent residential or commercial uses on each side of these trails. Within the buffer the following uses are prohibited: The erection of any structure, the clear-cutting of trees, and any, other use that would adversely affect the scenic or natural character of one of these trails. Notwithstanding anything herein to the contrary, accepted silvicultural practices are permitted in hiking trail buffer areas.

Section 414 - Parking and Loading Facilities

- (a) Minimum Off-Street Parking Space Requirements: For every building hereafter erected, altered, extended or changed in use, there shall be provided a minimum off-street parking spaces on the same or adjoining lot as set forth in this section.

- (1) All Residential Uses: 1.5 parking spaces per dwelling unit

- i. Minimum parking requirements for dwelling units shall be rounded up to the nearest whole number. For instance, a single-unit dwelling shall be required two parking spaces. A three-unit multi-family dwelling shall be required to have five parking spaces. ($3 \times 1.5 = 4.5$; round up to 5). On the other hand, a duplex shall be required to have three parking spaces. ($2 \times 1.5 = 3$).

(2) All Uses With Seating: 1 parking space per 4 seats; plus one parking space per employee estimated to be working during peak operation hours.

- i. This provision applies to any land use or establishment where seating is provided, including dining and assembly purposes.
- ii. For the purposes of parking requirements, seating includes fixed and movable seating arrangements, whether indoor or outdoor seating.

(3) All Other Uses: one (1) parking space per 400 square feet of floor area; plus one (1) parking space per employee estimated to be working during peak operation hours.

(b) Off-Street Loading Space Requirements: For every building hereafter erected, altered, extended or changed in use for the purpose of business, trade, or industry there shall be provided a minimum of off-street space for loading and unloading vehicles as set forth in this subsection.

- (1) Hotels, Motels, Hospitals, Non-office Businesses, Service and Industrial Establishments: One off-street loading space for every ten thousand square feet of floor area.
- (2) Wholesale, Warehouse, Freight and Trucking Uses: One off-street loading space for every seven thousand five hundred square feet of floor area.

(c) Calculating Parking Spaces:

- (1) A garage shall be considered to constitute a parking space or spaces, depending on the number of cars the garage can house.
- (2) With the approval of the Planning Commission parking spaces may be provided by the applicant on other property, provided that such land lies within three hundred feet of an entrance to the principal building and the property is owned by the applicant or the applicant provides proof of legal permission to utilize that property for parking purposes.
- (3) Parking spaces for any number of separate uses may be combined in one parking lot, but the required space assigned to one use may not be assigned to another at the same time, except upon approval of the Planning Commission.
- (4) Parking space size is defined as nine feet by eighteen feet. Parking spaces existing as of the effective date of these regulations shall count toward the parking requirements for an existing residential building if new residential units are added to the building, per 24 V.S.A. § 4428.

(d) Waiver of Off-street Parking Space and Loading Space Requirement. It is expressly acknowledged that it is inherently difficult to determine adequate parking and loading space requirements because of vast differences in alternative types of business. Therefore, the Planning Commission may require less parking or loading space than the stated requirements for good cause. The Planning Commission shall weigh evidence provided by the applicant demonstrating parking needs or loading needs, as applicable.

Section 415 – Driveways and Roads

(a) The Planning Commission (if subject to site plan review) or Zoning Board of Adjustment (if subject to Conditional Use review) shall review the length, width, slope, finished grade, and other impacts from a proposed initial construction, substantial extension, or substantial modification of any road or driveway, and set conditions on the driveway or road as appropriate to be consistent with these Regulations.

(b) No initial driveway or road construction, substantial modification, or substantial extension shall exceed (at any point) a 12% grade, unless this requirement is waived by the Planning Commission or Zoning Board of Adjustment. All new driveways and roads shall be adequately designed for emergency vehicles to perform a pull-out maneuver.

Section 416 - Nonconforming Uses

(a) Any nonconforming use of land may be continued indefinitely, subject to the following:

- (1) Movement, enlargement, alteration, extension, or restoration, or increase in external evidence of a nonconforming use shall take place only with approval of the Zoning Board of Adjustment, after a duly warned public hearing, in accordance with the following standards:
 - i. That there be no undue adverse effect on traffic in the vicinity;
 - ii. That there be no undue adverse effect upon surrounding property; and
 - iii. That the increase in ground coverage of any building or addition be less than 50% of the ground area covered by the existing building on the date of the adoption of these regulations or the amendment which made it nonconforming, and that the gross area of the proposed building not be more than 100% greater than the total gross area of the building on the date of adoption of these regulations or the amendment which made it nonconforming.
- (2) A nonconforming use shall not be changed to another nonconforming use without approval by the Zoning Board of Adjustment following a duly warned public hearing, and then only to a use which, in the opinion of the Board, is of the same or of a more restricted nature;
- (3) A nonconforming use that has changed to become conforming shall not be changed back to a nonconforming use.
- (4) A nonconforming use shall not be re-established if such use has ceased for a period of one year if a non-commercial use or two years if a commercial use. Intent to resume a non-conforming use shall not confer the right to do so;
- (5) A nonconforming use that has been interrupted by damage from any cause may only be re-established if such use is reinstated within one year of such damage. If such non-conforming use has not been fully reinstated but has continued without interruption in any undamaged part of any improvement, then such use may continue but only to the extent it has been so continued.
- (6) These regulations shall not be construed to restrict the authority of a municipality to abate public nuisances or to abate or remove public health risks or hazards, per 24 V.S.A. § 4412(7)(C).

Section 417 - Nonconforming Structures

Any nonconforming structure lawfully existing on the effective date of these regulations, or any subsequent amendment to it, may be used for any purpose permitted in the district in which it is located, subject to the following:

- (1) A nonconforming structure may be normally maintained and repaired, provided that such action does not increase the structure's degree of nonconformance.
- (2) A nonconforming structure may be enlarged upon, expanded, or extended, provided such action:
 - i. Does not increase the degree of the structure's nonconformance; and,
 - ii. Conforms to all other requirements applicable under these regulations.
- (3) If a nonconforming structure is partially or totally destroyed by fire or other catastrophe, it may be repaired or otherwise reconstructed in the footprint and to the height of its pre-disaster or catastrophe construction.
- (4) A nonconforming structure may be voluntarily replaced only in conformance with all the requirements of this regulation.

Section 418 - Development on a Nonconforming Lot or Parcel

An existing nonconforming lot may be normally developed provided that all provisions of these regulations, except those which create the lot's nonconformity, are complied with.

Section 419 - Alteration of a Nonconforming Lot or Parcel

The boundaries of a nonconforming lot or parcel may be altered only in a manner that does not increase its degree of nonconformity.

Section 420 - Nonconforming Structures in Flood Hazard District

(a) Where a nonconforming structure in a flood hazard district requires repairs, relocation or enlargement, the Zoning Board of Adjustment shall grant a permit only if it finds that:

- (1) the repair, relocation, or enlargement of the nonconforming structure is required for the continued economically feasible operation of a nonresidential enterprise; and
- (2) the repair, relocation, or enlargement of the nonconforming structure will not increase flood levels in the regulatory floodway, and will not threaten the health, safety, and welfare of the public or other property owners.

(a) The permit so granted shall state that the repaired, relocated, or enlarged nonconforming structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, may not be eligible for any flood insurance which may pertain to regulated flood hazard areas, and will be maintained at the risk of the owner.

Section 421 – Multiple Principal Dwelling Units

The establishment of more than one principal dwelling unit on a single parcel, including but not limited to multiple single-family dwelling units, is permitted provided all applicable standards of these regulations are met, including the dimensional standards of the applicable zoning district in Article III.

ARTICLE V: SITE PLAN AND CONDITIONAL USE REVIEW

Section 501 - Site Plan Review Intent

This article enables the Mendon Planning Commission to perform site plan review, as authorized in 24 V.S.A. § 4416. Article III outlines what uses in specific zoning districts require site plan review. Site plan review is used to ensure that the proposed construction / use of the site will provide adequate parking areas, loading areas, vehicular circulation, pedestrian circulation, landscaping and screening, and to limit any adverse impacts on adjacent properties from noise, light, odor, water runoff, or excess refuse.

Section 502 - Site Plan Review Scope

No zoning permit may be issued by the Zoning Administrator for uses listed as "Permitted Uses (Site Plan Review by Planning Commission required)" under these regulations until the Planning Commission has held a properly warned Site Plan Approval hearing and has approved the Site Plan.

Section 503 - Site Plan Review General Standards

- (a) In considering its action and holding its public hearing(s), the Planning Commission shall consider all relevant zoning provisions as well as all other Town ordinances, including, but not limited to considering the following in its review:
 - (1) Safety of vehicular and pedestrian circulation between the site and the street network. Particular consideration shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of an emergency.
 - (2) Adequacy of circulation, parking and loading facilities. Particular consideration shall be given to the items in (1) above and to the effect of noise, glare, or odors on adjoining properties. The requirements under Section 414 (parking and loading facilities) shall also be met.
 - (3) Adequacy of landscaping and screening with regard to achieving maximum compatibility and protection of adjacent property and pedestrian amenity and usability. The standards of Section 412 shall be met. Particular consideration shall be given to the preservation of existing vegetation, the visibility of unsightly or incompatible areas from the road and adjoining properties and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and light on the site.
 - (4) Adequacy of site layout and design in incorporating and protecting areas of steep slopes, surface waters, wetlands, and the associated setbacks and vegetative buffers designated in accordance with Article IV.
 - (5) Adequacy of stormwater management systems to incorporate natural drainage systems; minimize the need for system maintenance; maximize on-site infiltration and treatment, minimize surface runoff; accommodate existing anticipated runoff; and to protect the biological, chemical, and physical conditions of a water body.
 - (6) Adequacy of project site development to minimize the extent of soil disturbance and erosion.
 - (7) Any steps necessary to promote the utilization of renewable energy resources.
- (b) The foregoing shall not prevent the Planning Commission from considering, and from imposing appropriate conditions and safeguards for, any other specific items that may be set forth in 24 V.S.A. §4416 as it may be amended from time to time, and that may be set forth in Section 402 of these regulations.
- (c) Decisions shall be made in accordance with Section 1403 of these regulations.
- (d) The applicant shall submit the following in electronic and paper copies: two sets of site plan maps, floor plans, elevations, well and septic location and permitting information to the Planning Commission, which shall include the following information presented in drawn form and accompanied by written text:
 - (1) Name and address of the owner of record and owners of adjoining lands, name and address of person preparing the map, north point, date and scale of map not less than 1 inch to twenty feet, unless the Planning Commission determines that a different scale is needed to adequately show the size and relationship of the various parts of the plan.
 - (2) Survey of the property showing existing features, including contours, structures, streets, utility

- (3) easements, rights of way, land use and deed restrictions.
- (3) Site plan showing proposed structure(s), locations and land use areas, streets, driveways traffic circulation, parking and loading spaces and pedestrian walks; and landscaping plans including site grading, design and screening.
- (4) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas for the entire development.
- (4) Self-certification that all roads and driveways serving the development are designed and constructed to meet the Rutland City Fire Department standards for road or driveway width, turnaround, and grade (steepness). This certification shall be included as a condition of approval and submitted to the Zoning Administrator as part of the final materials required for recording of any subdivision, development, or issuance of a Certificate of Occupancy. The property owner or applicant shall be provided with the applicable Rutland City Fire Department standards.
- (e) A proposed site plan involving access to a State highway or other work in the State highway right-of-way shall include a letter from the Agency of Transportation with the specific information outlined in 24 V.S.A. § 4416(b).

Section 504 - Conditional Use Intent

- (a) Uses listed as "Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required)" in these regulations are considered to be generally desirable in the Town of Mendon, however careful site consideration is needed, in order for these activities to benefit the community as a whole.
- (b) These regulations are intended to ensure the proposed activity will have an overall positive effect on the neighborhood. In some cases, this may involve ensuring that there is adequate parking and loading area or sufficient screening from neighboring properties. In other cases, it may involve ensuring that the Town's road network, public safety capabilities or schools are not overly burdened, or making sure that the particular activity is truly capable of operating on the site without harming the neighborhood or greater community.

Section 505 - Conditional Use Scope

No zoning permit may be issued by the Zoning Administrator for uses listed as "Conditional Uses (Conditional Use Review by Zoning Board of Adjustment required)" in these regulations until the Zoning Board of Adjustment has held a properly warned Conditional Use Approval hearing and approved the use.

Section 506 - Conditional Use Review General Standards

- (a) In considering its action, the Zoning Board of Adjustment shall consider all relevant zoning provisions as well as all other Town ordinances. In considering its action, the Board shall make findings that:
 - (1) The proposed conditional use will not have an undue adverse impact on any of the following:
 - i. The capacity of existing and planned community facilities;
 - ii. The character of the area affected, as defined by the purpose of the land use district and the specifically stated policies and standards of the Mendon Town Plan;
 - iii. Traffic on roads and highways in the vicinity;
 - iv. Bylaws then in effect;
 - v. Utilization of renewable energy resources.
 - (2) All dimensional and general requirements of the district, or of the specific use where stricter requirements apply, have been met.
 - (3) The standards set forth in Section 503 (General Standards for Site Plan Review) have been met.
 - (4) The standards set forth in Section 402 have been met.
- (b) The Zoning Board of Adjustment may retain a technical consultant and/or an attorney to advise the Board during its review of applications for uses permitted but subject to conditional use review. Applicant shall bear the cost of such technical or legal consulting services.
- (c) Decisions shall be made in accordance with Section 1403 of these regulations.

ARTICLE VI: USE-SPECIFIC REGULATIONS

The purpose of this Article is to establish supplemental regulations for specific uses, structures, and locations.

Section 601 - Accessory Structures and Uses

- (a) Applicability: accessory structures and uses shall comply with the required lot setbacks and height limitations, and are subject to the receipt of a permit unless specifically exempted in these regulations. See Article XVI for the definition of an "Accessory Use or Structure".
- (b) Exemptions:
 - (1) Any land development or land use exempt from these regulations (see Section 111)
 - (2) One accessory structure per lot with a gross floor area not to exceed 100 square feet and height not to exceed 12 feet, subject to the following exceptions:
 - vi. All outdoor swimming pools, other than those intended to be collapsed and stored away in the winter, are subject to receipt of permits;
 - vii. All outdoor furnaces / boilers are subject to receipt of permits and shall, further:
 - 1. Be screened from view of neighbors and any public right of way
 - 2. Include a filter designed to minimize soot and other pollution emissions.
 - 3. Be serviced regularly to ensure proper function and filtration of pollution.
 - (3) Any more than one accessory structure per lot, irrespective of the gross floor area or height, is not exempt and requires a permit.

Note: See Section 614 for details concerning the construction and management of ponds.

- (d) Two (2) or more storage containers shall not be stacked on top of one another.

Section 602 - Home Occupations

- (a) A person shall not commence a home occupation without a zoning permit.
- (b) Notwithstanding anything else in these regulations, these regulations shall not prevent a resident from using a minor portion of a dwelling for an occupation which does not change the character of the residential district. A home occupation may be carried on subject to the following:
 - (1) The business shall be operated wholly within the principal building and / or accessory structures on the lot;
 - (2) The business shall occupy an area no greater than the equivalent of 49% of the gross floor area of the principal building or 1,000 square feet, whichever is greater.
 - (3) Not more than three persons who are not residents of the dwelling may be employed in the business, and in any event the business shall not employ more than five employees including residents and non residents;
 - (4) Obnoxious or excessive noise, smoke, vibration, dust, drainage, glare, odors, electrical interference or heat that is detectable at the boundaries of the lot on which the dwelling is located shall not be generated;
 - (5) No traffic shall be generated in substantially greater volume than normally exists in the neighborhood;
 - (6) No storage or display of goods shall be allowed outside existing buildings;
 - (7) Off-street parking shall be provided as required in Section 414; on-site parking shall be screened from public view.
 - (8) Any sign used shall be no larger than 12" X 24", shall not be lit, and shall not be placed within any public right of way.

Section 603 - Accessory Dwelling Units

- (a) One "accessory dwelling unit" (See Article XVI for the definition of "Accessory Dwelling Unit") that is located within or appurtenant to an owner-occupied single-family dwelling shall be permitted in accordance with the following:
 - (1) The unit is an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation; and,
 - (2) The property has sufficient wastewater capacity; and,
 - (3) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet in gross habitable floor area, whichever is greater; and,
 - (4) Applicable setback, coverage, and parking requirements specified in the bylaws are met; and,
 - (5) The owner occupies either the primary dwelling or accessory dwelling.
- (b) Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:
 - (1) A new accessory structure, constructed after the enactment of these bylaws,
 - (2) An increase in the height or floor area of the existing dwelling, or
 - (3) An increase in the dimensions of the parking areas.
- (c) In accordance with 24 V.S.A. § 4412(1)(E), these regulations shall treat a single-family dwelling with an accessory dwelling unit to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit.

Section 604 - Residential Care and Group Homes

A residential care home or group home to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined under 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property and shall be regulated in accordance with Article III.

Section 605 - Family Child Care Homes and Facilities

Licensed or registered family child care homes and facilities shall be subject to the following provisions:

- (1) A family child care home serving up to six children shall be considered to constitute a permitted single family residential use of property in accordance with the provisions of Article III.
- (2) A family child care home serving no more than six full-time children and four part-time children shall be considered to constitute a permitted single family residential use of property, but shall require site plan review.
- (3) Any family child care home or facility serving more than six full-time children shall be permitted only in the Village (Section 303) and Commercial (Section 304) districts.

Section 606 - Temporary Uses and Structures

- (a) Temporary permits may be issued by the Zoning Administrator for a period not exceeding one year, for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.
- (b) Temporary permits for mobile businesses from cars, trucks, trailers or retail stands may be issued by the Zoning Administrator for a period not exceeding 30 days total in a calendar year provided such permits are conditioned upon agreement by the owner to remove the temporary mobile business upon expiration of the permit. The 30 days may be non-consecutive. Such permits may be renewed upon application for an additional period not exceeding 15 days total which also can be non-consecutive. Permits may be issued

only in districts expressly allowed in Article III.

- (1) A "mobile business from cars, trucks, trailers, or retail stands" means a temporary commercial activity conducted from a motor vehicle, trailer, cart, or portable stand that is located on a site for the purpose of selling goods or services directly to the general public. Mobile businesses are characterized by generating customer demand at the location of operation rather than being incidental to a private event. A "mobile business from cars, trucks, trailers, or retail stands" for purposes of these regulations does not include mobile food service or retail activities that are incidental to a private gathering, festival, or special event. Where a mobile business operation is required by the State to obtain a permit or license, approval by the Zoning Administrator shall be conditioned upon the applicant submitting evidence of such permit or license prior to the commencement of operation.

Section 607 - Travel or Camping Trailers

It shall be unlawful for any person to park a camping trailer, travel trailer, pick-up coach, motor home on any public or private property, except in accordance with these regulations as follows:

- (1) In an approved camping trailer sales lot.
- (2) The owner may park it on his own property for storage, in the rear or side yards, providing that the trailer is parked behind the front face of the principal building and no closer than fifteen feet to any lot line. A trailer so parked shall not be used as permanent living quarters and shall not be hooked up to any utilities other than a temporary electronic/power connection except as provided for in subsection (3).
- (3) The camping trailer, travel trailer, pick-up coach, or motor home is used as temporary living quarters in accordance with Section 608 or is occupied with owner permission and with use of the property's wastewater facilities for not more than (14) fourteen days a year.

Section 608 - Temporary Living Quarters

Upon approval by the Zoning Administrator, a mobile home, camping trailer, travel trailer, pick-up coach, or motor home may be located on the construction site of a new or reconstructed residence for a period not to exceed 6 months, if in the opinion of the Zoning Administrator, not to do so would cause a hardship. The temporary living quarters shall comply with all applicable local and state water and wastewater regulations.

Section 609 - Antennas and Similar Structures

- (a) A residential antenna or dish antenna measuring less than three feet in diameter shall not require a permit and does not have to meet building height requirements.
- (b) In accordance with 24 V.S.A. § 4412(8)(A), no permit shall be required for the placement of an antenna used for transmitting and/or receiving communication signals on a property owner's premises, provided that:
 - (1) The largest face of the antenna does not exceed 15 square feet in area; and
 - (2) The antenna and any supporting mast do not extend more than 12 feet above the roofline of the structure to which the mast is attached.
- (c) Except as outlined in Section 609 (b), a dish antenna measuring more than three feet in diameter or other antenna less than 20 feet in height shall be considered an accessory use. It shall require a building permit, and shall meet the following requirements:
 - (1) earth tone colors;
 - (2) in an unobtrusive location as is possible;
 - (3) in compliance of setback requirements of lot; and
 - (4) trees which will achieve a height of at least the height of the antenna within 5 years.
- (d) A radio or television antenna, transmitter, or relay station greater than 20 feet in height shall be considered a conditional use in any district but shall be exempt from the zoning district's height requirements.

Section 610 - Windmills (household scale)

- (a) All systems subject to 30 V.S.A. Section 248 are exempt from these regulations.
- (b) All non-exempt systems shall be subject to site plan review in accordance with Sections 501-503 and the following requirements:
 - (1) The maximum design output for one or more facilities on a parcel shall be 15 kw/h.
 - (2) The maximum height for any windmill facility shall be 130 feet, measured from the ground to the top of the blade.
 - (3) Towers shall have a minimum setback from all property lines, utility rights of way, and public rights of way of 1½ times the height of the tower.
 - (4) Wind energy systems shall not exceed sound levels of 70 DBA as measured at the nearest neighboring property boundary. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
 - (5) Natural screening using existing landscape features is encouraged. Windmills shall be neutral in color.
 - (6) No systems shall be erected in the Mendon Ridgeline Overlay District.

Section 611 - Sand and Gravel Pits

All sand and gravel pits for commercial use shall be subject to conditional use review in accordance with Sections 504-506 and the following requirements:

- (1) Applications shall include a clearly defined boundary of proposed excavation and any proposed phases.
- (2) A landscaped or wooded buffer of 50 feet shall be provided along any public road or highway and along the lot line of any property with an existing residence. This provision applies to any new or expanded portion of the establishment.
- (3) Structures may be exempted from the maximum height regulations of the district.
- (4) Before approval of any new operation or extension to a sand or gravel operation, a performance bond from a company approved by the Commissioner of Department of Financial Regulation shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe and useful condition in the interest of public safety and general welfare. The owner shall submit a plan or proposed improvements to accomplish this end.
- (5) All active excavation operation sites shall be stabilized annually before winter to prevent erosion and potential hazards at the site.
- (6) Inactive or unused excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be stabilized and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion to the satisfaction of the Zoning Board of Adjustment.
- (7) All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the state, as applicable, and the Zoning Board of Adjustment.
- (8) Sand and gravel pits subject to an industrial multi-sector general permit or other stormwater permit issued by the State or federal EPA shall comply with all provisions of that permit. The Town shall require proof of compliance with the permit prior to approving any new operation or extension to an existing operation.
- (9) No excavation, blasting or stockpiling of materials shall be located within two hundred feet of any street or other property line.
- (10) Because of possible noise and dust, no power-activated sorting machinery or equipment shall be located within two hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
- (11) All excavation slopes in excess of 50% (a rise of one foot vertically on two feet horizontally) shall be adequately fenced for safety purposes as determined by the Zoning Board of Adjustment.
- (12) Except in emergency situations as determined by the Selectboard, hours of operation shall not begin before 7:00 AM on weekdays and 9:00 AM on Saturdays and federal holidays, and end no later than

one hour after sunset, or 8:00 PM whichever is earlier. No operations shall be allowed on Sundays. The ZBA may consider noise and neighborhood disturbance and further limit hours based on these considerations.

Section 612 - Light Industry

All proposed Light Industry activities shall be subject to conditional use review in accordance with Sections 504-506 and the following requirements:

- (1) The applicant shall demonstrate that there will be no significant air, water, or noise pollution resulting from the project.
- (2) If process water is used in manufacturing, the applicant shall provide an adequate disposal system that prevents contamination and complies with all state regulations.
- (3) Maximum of one access to U.S. Route 4 per industry is permitted.
- (4) Suitable landscaping is required in accordance with Section 412 and any district-specific regulations.
- (5) No large use or storage of hazardous materials shall be permitted without approval by the Zoning Board of Adjustment.
- (6) The Zoning Board of Adjustment may require an outside review of the application by the Rutland City Fire Department or other organizations to ensure workplace safety and mitigation of potential hazardous materials incidents.
- (7) The Zoning Board of Adjustment may require increased setbacks from lot lines, public highways, or waterways if deemed necessary for public safety purposes.

Section 613 - Mobile Home Parks

- (a) All proposed Mobile Home Park activities shall be subject to conditional use review in accordance with Sections 504-506 and the following requirements:
 - (1) A Mobile Home Park shall have an area of not greater than five (5) acres.
 - (2) Mobile Home Parks shall provide for individual mobile home lots, access driveways, and parking, and common open space.
 - (3) Each mobile home lot within a Mobile Home Park shall be at least 8,000 square feet in area, with a minimum width and depth of 70 feet, and shall front onto an access driveway. No part of any mobile home in the Park shall be closer than 45 feet to the closest part of any other mobile home in the Park.
 - (4) All access driveways within a Mobile Home Park must be at least 50 feet in width and have a gravel surface at least 24 feet wide and 12 inches in depth of compacted gravel.
 - (5) Two (2) parking spaces at least 10 feet wide by at least 20 feet long shall be provided for each mobile home lot.
 - (6) Each mobile home lot shall have an attachment for a water supply. The water supply source must be approved by the appropriate state agencies.
 - (7) Each mobile home lot shall have an attachment for sewage disposal. The method of sewage disposal must be in compliance with town ordinances, state statutes and regulations, and be approved by applicable state review bodies.
 - (8) No mobile home, office or service building shall be closer to a public right-of-way than 50 feet.
 - (9) A strip of land, at least 25 feet in width, shall be retained as a landscape area abutting all Mobile Home Park property lines. Landscaping is herein described as it is defined in Section 412. In addition, there shall be one mature or newly planted coniferous or deciduous tree for every 2,000 square feet of area, exclusive of the aforementioned 25-foot strip. The Zoning Board of Adjustment shall have discretion as to the placement of the trees.
 - (11) No mobile home shall be parked on a lot within a Mobile Home Park closer than ten (10) feet to an interior lot line.
 - (12) No addition shall be made to a mobile home, without a building permit. All mobile homes shall have a suitable skirt or similar device to disguise the under-side of the home.
- (b) Nothing in these regulations shall have the effect of prohibiting the replacement of mobile homes on existing lots, per 24 V.S.A. § 4412(1)(B).

Section 614 - Construction and Management of Ponds

- (a) Purpose: To protect the lives and property of citizens; the infrastructure of the community; and the health of the natural environment, the construction of ponds described in sub-section (b) shall require a zoning permit. The purpose of regulating pond construction is to reduce the possibility of failure from improper design or construction; to minimize potential flood damages incurred to upstream properties by the storage of waters; and to minimize the damages caused by the sudden release of stored water from a failure of the dam or intentional rapid draining of the impoundment.
- (b) Requirements: The creation of ponds and other impoundments may be permitted as an accessory use upon application and receipt of a zoning permit. In issuing a zoning permit, the Zoning Administrator shall find that:
 - (1) Any pond that impounds more than 100,000 cubic feet of water or includes a structural element greater than ten (10) feet high measured from the lowest elevation of the downstream toe to the crest shall be designed and certified by a Vermont Licensed professional engineer with experience in pond design.
 - (2) Any pond that will impound, or be capable of impounding, in excess of 500,000 cubic feet of water has received a permit from the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 43.
 - (3) If the project necessitates any work in a stream and if a stream alteration permit or other approval is required from the Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 41, such permit or approval has been received.
 - (4) If the project requires a permit or approval due to impacts on wetlands; rare, threatened, or endangered species; or the passage of fish; or if the project requires a permit or approval from the US Army Corps of Engineers, the Act 250 District Commission, or any other state or federal authority, such permit or approval has been received.
- (c) Upon issuance of the zoning permit, the Zoning Administrator shall duly note that the applicant is responsible for the pond's safety and liable for its failure if he or she does not maintain, repair, or operate the pond in a safe and proper manner.

Section 615 - Multi-Family Residential Uses (where listed as Conditional)

- (a) In areas where Multi-Family Uses are listed as Conditional, proposed Multi-Family Uses shall be reviewed in accordance with Sections 504-506 and the following requirements:
 - (1) Clustering of buildings and preservation of open space is encouraged.
 - (2) A maximum of one access point onto a public road per development is permitted. Shared access among neighboring properties is encouraged.
 - (3) Vehicle and pedestrian circulation within the site shall be designed for safety, convenience, and aesthetics.
 - (4) Parking shall be located on the least visible (from any public road) portion of the property.
 - (5) Provisions for bus stops, bicycle paths, and handicapped access are encouraged.
 - (6) Site planning shall consider the effects of steep slopes, natural drainage patterns, solar gains, and existing natural features of the site.

Section 616 - Structures in Sensitive Development Areas

In areas where structures are proposed to be located or substantially altered in areas sensitive to development, including flood hazard and ridgeline overlay districts, they shall be reviewed in accordance with Sections 504-506 and the following requirements:

- (a) Setbacks and vegetated riparian buffers:
 - (1) All structures shall be set back 150 feet from streams.
 - (2) All structures shall be set back 100' from any public road and shall be reasonably screened by vegetation from any public road.

- (b) Erosion and Stormwater Control: Development shall be sited and constructed, and slopes stabilized in accordance with accepted engineering and best management practices for stormwater management and erosion control to:
 - (1) prevent runoff, erosion, slumps, and other down slope movements of material, and minimize associated risks to surface and ground waters, public facilities and roads, and neighboring properties.
 - (2) Placement of Structures: Structures shall only be permitted after careful consideration of the location of all proposed structures relative to existing vegetation, and the location of fragile features (including, but not limited to, streams, undisturbed blocks of forest land, or unique habitats and natural areas). Specifically, structures shall:
 - (3) Be minimally visible from public roads and properties;
 - (4) Not stand in contrast to surrounding landscape patterns and features or serve as a visual point from public roads or valleys;
 - (5) Be sited to retain a maximum amount of continuous, undisturbed forest land
 - (6) Designed so that the height of any structure does not visually exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure
 - (7) Located and designed so that the height of proposed structures will not exceed the elevation of any adjacent ridge line; and,
 - (8) Minimally disturbs connected wildlife habitat areas
- (c) Clearing and landscaping: The location of proposed structures relative to existing vegetation shall protect the visual features of the ridgeline or forest area. Additional planting of native trees and / or limit the amount of clearing, and / or a plan for the maintenance of the remaining and proposed trees may be required.
 - (1) No town-sponsored water or wastewater systems will be supplied in this district.
 - (2) Wherever possible, shared driveways for separate homes will be used.

Section 617 - Permitted Commercial District Uses in Residential District II

This section is intended to allow owners of lots located in both the Commercial District and Residential II District to place a structure further back from Route 4 and create improved screening relative to front yard setbacks.

- (a) Only those uses that are permitted uses (and specifically not conditional uses) in the Commercial District shall be allowed in Residential District II.
- (b) The conditional uses described herein shall only be allowed if the subject parcel is located in both the Commercial District and Residential District II.
- (c) The conditional uses described herein shall extend no more than 300 feet into Residential District II, starting from the point in the Commercial District which is farthest from the U.S. Route 4 right-of-way. For every three (3) feet of extension into Residential District II there shall be required two (2) feet of front yard setback, in addition to what is required by the District or the use, and two (2) feet of landscaped buffer, in addition to what is required by Section 412. All trees planted in the additional landscaped buffer must be at least eight (8) feet in height.
- (d) The entire front yard setback and landscaped buffer shall only be used as said setback and buffer, and for no other purpose, in perpetuity, and shall be so restricted by an appropriate instrument recorded in the land records. If the conditional use permitted by this Section shall cease, and the property again is in compliance with these regulations as they relate to uses allowed in Residential District II, then the restrictions placed on the front yard setback and the landscaped buffer shall lapse, and the provisions of these regulations pertaining to the Commercial District shall again control the required setback and buffer. The Zoning Administrator shall direct the Town Clerk to make an appropriate notation in the margin of the aforementioned recorded instrument. In order for the conditional use to cease, any improvements which are not in compliance with these regulations as they pertain to other uses permitted in Residential District II shall be removed and the landscape shall be restored to its natural condition.

- (e) No access shall be permitted to any land which is subject to this Section through any zoning district other than the Commercial District.
- (f) Except where inconsistent with this Section, the provisions of these regulations relating to the Commercial District shall apply to conditional uses in Residential District II.

Section 618 – Primitive Camps (e.g. Hunting or Seasonal Camps)

- (a) These regulations exempt primitive camps. A primitive camp is defined as a building that is for residential use and is occupied for no more than 60 days in any calendar year and occupied for no more than 3 consecutive weeks. A primitive camp is allowed on an undeveloped lot or a lot that contains only one single family residence provided: any plumbing within the camp is limited to one sink; and there is no toilet that requires water for flushing; and the only soil-based wastewater system consists of a subsurface system for the disposal of the sink water.
- (b) A primitive camp may have a waterless toilet such as an incinerator or composting toilet or a self-contained outhouse. The disposal of the contents of each of these units must comply with § 1-922(b) of the Wastewater System and Potable Water Supply Rules. Disposal includes: shallow burial in a location approved by the Agency that meets the minimum site conditions in § 1-805 of the Rules; or bagged and disposed of in a certified landfill.

Notes:

- *Prior to applying the contents of the toilets to the surface of the ground, approval is required from the Wastewater Section of the Watershed Management Division.*
- *The installation of a soil-based leach field and pit privy are wastewater systems and are prohibited unless permitted by the Drinking Water and Groundwater Protection Division. The water supply and wastewater system must fully comply with the Wastewater System and Potable Water Supply Rules.*

Section 619 – [Reserved]

Section 620 – Solar Arrays

- (a) Exempt.
 - (1) All solar arrays subject to 30 V.S.A. Section 248 are exempt from these regulations.
 - (2) All solar arrays that do not exceed nameplate 30 KW are exempt from these regulations provided the solar array adheres to the setbacks for the district as outlined in Article III. This exemption shall include solar arrays not subject to 30 V.S.A. Section 248.
- (b) All solar arrays not exempt from these regulations shall be subject to conditional use review in all zoning districts.

Section 621 – Duplexes

In accordance with 24 V.S.A. § 4412 (1)(D), in any district that allows year-round residential development, duplexes shall be an allowed use with dimensional standards that are not more restrictive than is required for a single-unit dwelling, including no additional land or lot area than would be required for a single-unit dwelling.

ARTICLE VII: RESERVED

ARTICLE VIII: PLANNED UNIT DEVELOPMENTS

Section 801 - Purpose

- (a) The purpose of a Planned Unit Development (PUD) is to promote the creative and efficient use of land with respect to topography and other natural features; encourage the preservation of open space; provide for the economical development of the site and the more efficient use of public facilities; promote an improved level of amenities, appropriate and harmonious variety, creative design, and a more attractive environment; and provide greater opportunities for better housing.
- (b) In accordance with 24 V.S.A. Sections 4417, and within specified districts, these zoning regulations may be modified by the planning commission to allow planned unit developments, subject to the standards and procedures of this Article.

Section 802 - Districts and Use

- (a) A PUD may be located in these districts: Village, Commercial, Residential I, and Residential II.
- (b) A planned unit development may include within its area any permitted or conditional use in the district in which it is located
- (c) The Planning Commission may allow for a greater density or intensity of residential land use within some section or sections of the development than within others, which shall be offset by a lesser density in any other section.

Section 803 - Standards and Criteria

- (a) Scenic assets and natural features shall be protected and preserved to the extent reasonably feasible. Specifically:
 - (1) areas of archeological or historic significance;
 - (2) floodplains, streams, wetlands and associated buffers and areas with steep slopes, aquifer recharge areas; and protected forest lands;
 - (3) unique or unusual topographical features;
 - (4) individual trees or stands of trees of unusually large size or great age;
 - (5) Connected wildlife habitats or migration corridors located on the property.
- (b) A PUD site shall be planned and developed in such a manner to reduce or eliminate negative impacts on surrounding property whether presently developed or not. This shall be achieved through such techniques as buffer areas at the site perimeter, screening and landscaping and site design and layout.
- (c) Integrated architectural design shall be used for buildings, structures, landscaping, and common open areas.
- (d) When a PUD site includes a mixture of land uses, such as residential and/or recreational and/or commercial, the development of each use shall occur within a timetable that insures the accessory buildings (i.e. tennis courts, shops) are completed before or at the same time as the primary buildings (i.e. housing units).
- (e) All new or proposed utilities shall be underground, unless waived by the Commission because of unusual terrain conditions.
- (f) Active or passive solar or other energy conservation or efficiency methods will be encouraged.
- (g) Principal vehicular access to a PUD shall be from streets and roads that are capable of supporting existing and anticipated volumes of traffic, based on the ultimate build out. Access points shall be designed to provide smooth flow, controlled turning movements, and minimum hazard to vehicular or pedestrian traffic. Merging lanes, deceleration lanes, left-turn stacking lanes, and/or traffic dividers shall be provided where existing or

anticipated heavy flows of traffic indicate such need as determined by a professional traffic engineer.

- (h) In order to separate automobile and pedestrian circulation and to increase accessibility to common open space areas, pedestrian walkways will be provided wherever feasible.
- (i) For emergency vehicle access, streets ending in a cul-de-sac shall not be greater than 600 feet in length, unless the roadway width is at least 28 feet and cul-de-sac turnarounds are at least 90 feet in diameter.
- (j) The applicant shall meet all applicable State of Vermont regulations for discharge and the design of drainage facilities, including stormwater treatment practices and sizing criteria set forth in the *Vermont Stormwater Management Manual Volumes I and II* as most recently amended, and shall take particular care in the design of drainage facilities to preserve or enhance the quality of any adjacent bodies of water.
- (k) Dwelling units shall be assured reasonable visual and aural privacy.
- (l) Screening of parking and service areas from adjacent structures may be required by the use of trees, shrubs, hedges, and screening walls or fences.
- (m) Not less than 50 percent of the area of the property shall be usable open space devoted to gardens, patios, walkways, recreational areas, or forest, which are accessible and available for the collective use and benefit of the occupants of the development.
- (n) In calculating usable open space, the Planning Commission may determine that all or part of stream areas, bodies of water, drainage easements, and slopes in excess of 15 percent may be included by considering:
 - (1) the extent of these areas in relation to the area of the planned unit development or the planned residential development; and
 - (2) the degree to which these areas contribute to the quality, livability, and amenity of the planned unit development or the planned residential development.
- (o) A maximum of one-half of the required open space may be areas covered by water.
- (p) Significant natural features such as woodland areas, large trees, natural watercourses and bodies of water, rock outcroppings, and scenic views shall be incorporated into common open space areas whenever possible. No less than 10 percent nor more than 40 percent of the total common open space area shall be suitable for intensive use as an active recreation area.
- (q) All common open space development rights in a planned unit development must be conveyed to the municipality, to a funded trust approved by the town, or to a homeowner's association. The terms of the conveyance must include adequate provisions for guaranteeing:
 - (1) the continued use of the land for the intended purposes;
 - (2) continuance of proper maintenance of the open space; and
 - (3) the availability of funds for proper open space maintenance.
- (r) Any Homeowners' Association (Association) shall be a nonprofit corporation with automatic ownership in the association when property is purchased in the planned unit development or the planned residential development. Provisions governing the Association shall include, but not be limited to, the following:
 - (1) The Association must be formed before the units are sold;
 - (2) Membership in the Association must be mandatory for each buyer and any successive buyer;
 - (3) If the common open space is deeded to the Association, the open space restrictions must be permanent;
 - (4) The Association must be responsible for liability insurance, municipal taxes, and the maintenance of recreational and other facilities;
 - (5) Owners must pay their pro rata share of the cost. The assessment levied by the Association can become a lien on the property if not paid when due;
 - (6) The Association must be able to adjust the assessment to meet changing needs of the PUD or PRD.

(s) PUDs and PRDs shall be planned to avoid areas of steep slopes, surface waters and wetlands pursuant to the minimum requirements of Section 317 and Section 417 of this zoning regulation.

Section 804 - Dimensional Requirements

- (a) The minimum size of a PUD shall be 5 acres.
- (b) The setback of the buildings and structures around the perimeter of the PUD shall be 50 feet in the commercial and village districts and 200' in the residential district.
- (c) No greater number of dwelling units and other uses shall be included in the PUD than would be permitted if the same site and uses were developed conventionally under these regulations, except as provided in Section 805 below.
- (d) Setback requirements between structures within a PUD, set forth in each applicable zoning district, may be reduced by the planning commission where such reduction support the goals of this Article.

Section 805 - Density Increases

- (a) Residential increases in density may be granted subject to the following conditions, which shall be treated as additive and not compounded.
- (b) Character, identity, and architectural and siting variation incorporated in a development shall be considered reason for density increases not to exceed 33 1/3 percent, provided these factors make a substantial contribution to the objectives of the Town Plan and these Regulations . Such variations may include, but are not limited to, the following:
 - (1) Landscaping (maximum increase 9 percent). Streetscape, open spaces and plazas, use of existing landscape, pedestrian way treatment, and recreational areas.
 - (2) Siting (maximum increase of 8 percent). Visual focal points, use of existing physical features, such as, topography, view, sun and wind orientation, circulation pattern, physical environment, clustering, variation in building setbacks and the underground installation of utilities.
 - (3) Design features (maximum increase of 8 percent). Street sections, architectural styles, harmonious use of materials, parking areas broken by landscape features, varied use of house types.
 - (4) Environmental features (maximum increase of 8.33%). Preservation, enhancement, and integration of natural features and/or utilizing low-impact development techniques.
- (c) In no case shall the total density increase exceed 33 1/3 percent and the increase in density allowed shall be discretionary on the part of the Planning Commission, based on the improvements presented by the applicant.

Section 806 - Application, Review, and Enforcement Procedure

- (a) A PUD application shall be reviewed by the Planning Commission and may also constitute a simultaneous review for approval of site plan review and subdivision permit.
- (b) Pre-Application Conference
 - (1) One or more pre-application conferences shall be held with the applicant, Planning Commission, and interested municipal officials to exchange information and reach an understanding of the nature and scope of the proposal, municipal requirements, and quantitative data necessary for a preliminary application.
 - (2) The applicant shall submit to the Planning Commission sketch plans and basic site information with respect to proposed land uses, adjacent land uses, proposed density, and the treatment of open space.
 - (3) The Planning Commission shall furnish the applicant with written comments and appropriate recommendations with respect to the pre-application conference, to inform and assist the applicant

in the preparation of the preliminary planned unit development or planned residential development application.

(c) Preliminary Development Plan Application and Review

- (1) All planned unit development applications shall be submitted to the Planning Commission in accordance with Section 1003
- (2) After reviewing the preliminary development plan application, the Planning Commission shall advise the applicant of any specific changes or additions it will require as a condition of approval of the planned unit development or the planned residential development proposal. Preliminary approval shall constitute authorization to prepare and submit a final development plan application and shall be effective for a period of one year.

Section 807 - Final Development Plan Application and Review

- (a) Following approval of the preliminary development plan, the applicant shall file with the Planning Commission an application for final approval. The application shall include all fees and specific information on all changes in, or modifications of, the approved preliminary application.
- (b) All additional materials, maps, or information required by any subdivision bylaws in effect must be included with the development application.

Section 808 - Phased Projects and Substantial Changes to a Project

- (a) Planned unit developments to be constructed in multiple phases shall require a zoning permit for each phase, which shall be issued by the Zoning Administrator if the application conforms to the overall PUD approval and if the terms of PUD approval have not been violated.
- (b) Any substantive changes to an approved PUD shall be processed as a new application for PUD approval and shall meet all standards and criteria and procedural requirements.

ARTICLE IX: MUNICIPAL APPOINTMENTS

Section 901 - Zoning Administrator

- (a) The Selectboard shall appoint a Zoning Administrator from nominations submitted by the Planning Commission for a term of three (3) years in accordance with the 24 V.S.A §4448. The Selectboard may remove an Zoning Administrator for cause at any time after consultation with the Planning Commission.
- (b) An acting Zoning Administrator may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Zoning Administrator in the Zoning Administrator's absence or conflict of interest.
- (c) The Zoning Administrator shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.
- (d) In addition, the Zoning Administrator shall coordinate the municipality's development review programs. The Zoning Administrator shall provide the applicant with any requested forms for other municipal permits. The Zoning Administrator may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Community Assistance Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain all relevant permits.

Section 902 - Planning Commission

- (a) The Planning Commission shall consist of not less than three (3) nor more than nine (9) members appointed by the Selectboard in accordance with 24 V.S.A. §§4321– 4323. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the Selectboard.
- (b) The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the 24 V.S.A. §4461(a) and Vermont's Open Meeting Law. The Commission shall have all powers and duties as set forth in 24 V.S.A. Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
 - (1) to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition;
 - (2) to prepare and approve written reports on any proposed amendment to these regulations as required by the 24 V.S.A. §4441(c);
 - (3) to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Legislative Body 24 V.S.A §4441(d);
 - (4) applications for rights-of-way or easements for development lacking frontage;
 - (5) applications for site plan approval;
 - (6) applications for subdivision approval; and,
 - (7) applications for planned unit development.

Section 903 - Zoning Board of Adjustment

- (a) The Zoning Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Selectboard for specified terms in accordance with 24 V.S.A §4460(b) and (c). The Selectboard also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or are otherwise unable to serve. Any member of the Zoning Board of Adjustment may be removed for cause by the Selectboard upon written charges and after public hearing.

(b) The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A §4461(a) and Vermont's Open Meeting Law. The Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- (1) appeals from any decision, act or failure to act by the Zoning Administrator, and any associated variance requests;
- (2) applications for conditional use approval;
- (3) applications for the repair, relocation, replacement, or enlargement of a nonconforming structure within a regulated flood hazard area; and,
- (4) applications regarding nonconforming uses.

ARTICLE X: ZONING PERMITS

Section 1001 - Applicability

- (a) No land development as defined herein, which is subject to these regulations, shall be commenced in the Town of Mendon until a zoning permit has been issued by the Zoning Administrator, as provided for in 24 V.S.A §§4448, 4449.
- (b) Any use not permitted by these regulations shall be deemed to be prohibited.

Section 1002 – Reserved

Section 1003 - Application

Application Requirements. An application for a zoning permit shall be filed with the Zoning Administrator on form(s) provided by the municipality. Required application fees, as set by the Mendon Selectboard, also shall be submitted with each application. Two copies of the following information will be required, as applicable:

- (a) **Permitted Uses.** Applications for a permitted use shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following:
 - (1) The dimensions of the lot, including existing property boundaries, road rights-of-way,;
 - (2) The location of existing trees or tree groupings, slopes, wetlands, waterways and significant natural features within 200 feet of the proposed development;
 - (3) The location, footprint and height of existing and proposed structures or additions,
 - (4) Existing and required setbacks from property boundaries;
 - (5) The location of existing and proposed accesses (curb cuts), driveways and parking areas;
 - (6) The location of existing and proposed easements and rights-of-way;
 - (7) The location of existing and proposed water, wastewater, and stormwater management systems;
 - (8) A surveyor's plot plan of the property, if available; and,
 - (9) Other such information as required by the Zoning Administrator to determine conformance with these regulations, including applicable state permits for wastewater disposal and adequate water supply for the proposed development.
- (b) **Uses Subject to Development Review.** For development requiring one or more approvals from the Zoning Board of Adjustment or Planning Commission prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit. In addition to the requirements under Section 1003 (1), the applicant shall submit two copies of the following information in drawn form, accompanied by written text:
 - (1) Name and address of the owner of record and adjoining lands, name and address of person or firm preparing the map, north point, date, and scale of map not less than 1" to 20' unless the Planning Commission or Zoning Board of Adjustment determines that a different scale is needed to adequately show the sizes and relationship of the various parts of the plan.
 - (2) Survey of the property showing existing features, including contours, structures, streets, utility easements, rights of way, land use and deed restrictions.
 - (3) Site plan showing proposed structure(s), locations and land use areas; streets, driveways, traffic circulation, parking and loading spaces and pedestrian walks; landscaping plans, including site grading, landscape design and screening.
 - (4) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas of the entire development.
 - (5) A written statement from the city of Rutland Fire Department (or such other entity that may be responsible for fire protection in Mendon) that the development is not of a nature such that adequate fire protection will not be available.
- (c) **Planned Unit Development Review:** For all planned unit development application, in addition to the requirements under Section 1003 (1) and (2), the applicant shall submit two copies of the following information in drawn form, accompanied by written text:

- (1) A statement by the applicant describing the character of the development and the reasons for the particular approach proposed;
- (2) A development schedule indicating the approximate date or number of days when construction of the planned unit development or planned residential development or stages of the planned unit development or planned residential development can be expected to begin and be completed;
- (3) Quantitative data indicating the total number and type of dwelling units, parcel size, proposed lot coverage of buildings and structures, approximate gross and net residential densities, amount of usable open space, and total amount of nonresidential and institutional construction;
- (4) The location and size of all land areas to be conveyed, dedicated, or reserved as common open space, parks, recreational areas, school sites, etc.;
- (5) Existing and proposed utility systems;
- (6) Method of wastewater disposal;
- (7) Method of stormwater management
- (8) Unique natural features;
- (9) The proposed treatment of the perimeter of the planned unit development including materials and techniques used for buffers and scenery;
- (10) Any additional information required by the planning commission to enable it to evaluate the character and impact of the proposed planned unit development

(d) Activities subject to Flood Hazard Area Approval. Any application for development within the Flood Hazard Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources in accordance with the Act §4424(D). The Zoning Administrator shall mail or deliver this copy to the Agency of Natural Resources. In addition to applicable requirements of Section 1003 (1) and (2), every application shall contain the following additional information in order to meet the requirements of the National Flood Insurance Program floodplain management regulations (44 CFR Parts 59 and 60) [Permitted open space uses shall be exempt from the requirements of paragraphs B, D, and E below]:

- (1) The existing and proposed land contours, streams, roads, other pertinent physical features, buildings and structures;
- (2) The elevation of the lowest habitable floor, including the basement of new or substantially improved structures and confirmation as to whether such structure contains a basement;
- (3) Proposed location of fill and/or storage of materials;
- (4) Proposed flood proofing measures and the level to which any structure will be flood proofed;
- (5) Base flood elevation for subdivisions and developments which involve more than 50 lots or 5 acres (whichever is smaller);
- (6) The status of all necessary permits required by Federal or State law;
- (7) A description of the extent of which any watercourse will be altered or relocated as a result of the proposed development;
- (8) Any clarifying or supplementary information and data necessary to pass upon the application;
- (9) The relationship of the proposal to the location of the channel;
- (10) The extent of the flood hazard area and the base flood elevation using the best information available; and,
- (11) A demonstration that all necessary permits required by Federal or State laws have been obtained.
- (12) Proposed Erosion Control Measures, both temporary (during construction) and permanent.

Section 1004 - Issuance

A zoning permit shall be issued by the Zoning Administrator only in accordance with the Act §4449 and the following provisions:

- (1) Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Zoning Administrator shall act to either issue or deny a zoning permit in writing (including reasons therefore if denied), or to refer the application to the Planning Commission, Zoning Board of Adjustment, and/or State for consideration. In accordance with the Act §§4448, 4449, if the Zoning Administrator fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

- (2) No zoning permit shall be issued by the Zoning Administrator for any use or structure which requires the approval of the Planning Commission, Zoning Board of Adjustment, or Legislative Body until such approval has been obtained.
- (3) Prior to issuing a permit within the Flood Hazard Area, a copy of the application and supporting information shall be submitted by the Zoning Administrator to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.
- (4) Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (5) If public notice has been issued by the Selectboard for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Zoning Administrator shall review any new application filed for compliance with the proposed bylaw or amendment or applicable existing bylaws so long as the existing bylaws are not in conflict with proposed bylaw or amendment. If the existing bylaws are in conflict with the proposed bylaw or amendments, the proposed amendments shall prevail. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw §4449(d). An application that has been denied under a proposed bylaw or amendment that has been rejected or that has not been adopted with the 150-day period shall be reviewed again, at no cost, under the existing bylaws, upon written request of the applicant.
- (6) A zoning permit shall include a statement of the time within which appeals may be taken, and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for appeal has expired.
- (7) The Zoning Administrator, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.
- (8) Pursuant to 24 VSA § 4414 (23), the Zoning Administrator may condition or prohibit the commencement of construction authorized by the zoning permit until a wastewater and potable water supply permit is issued under 10 VSA Chapter 64.

Section 1005 - Effective Date

- (a) No zoning permit shall take effect until the fifteen (15) day time for appeal has passed. In the event that a notice of appeal is properly filed, the provisions of 24 VSA § 4449(a)(2) shall apply.
- (b) If the zoning permit is approved, construction must be commenced within one year of its date of issuance and completed within two years of issuance of the permit or the zoning permit shall become null and void and reapplication with fees for a new permit will be required.

Section 1006 - Certificates of Occupancy

- (a) Requirement. It shall be unlawful to use, occupy or permit the use or occupancy of any land or structure or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy is issued therefore by the Zoning Administrator, stating that the proposed use

of the land or structure conforms to the provisions of these regulations and the terms of any and all permits issued hereunder. A Certificate of Occupancy shall not be issued until the following conditions are met:

- (1) The applicant has received all necessary State and local permits, including water and / or wastewater permits from the Vermont Agency of Natural Resources
- (2) State of Vermont Division of Fire Safety occupancy approval letter pursuant to the Vermont Fire and Building Safety Code is submitted for all structures requiring such approval.
- (3) Certification by the licensed designer of the septic system that it was installed according to the approved plans.
- (4) In accordance with 24 V.S.A. § 4449(a)(2), provision of a certificate as required by 30 V.S.A. § 51 (Residential Building Energy Standards) or 30 V.S.A. § 53 (Commercial Building Energy Standards), as applicable.

(b) Issuance. Within 21 days after an applicant has submitted a complete application for a Certificate of Occupancy, including paying the fee therefore, and all relevant conditions specified in subsection (a) have been satisfied, it shall be the duty of the Zoning Administrator to make a final inspection and issue a Certificate of Occupancy if the land, building, structure or part thereof is found to conform with the provisions of these regulations.

(c) Refusal. If after such final inspection the Zoning Administrator refuses to issue a Certificate of Occupancy, the Zoning Administrator shall state the reason for such refusal and cause thereof in writing and immediately mail notice of such refusal to the applicant at the address indicated on the application.

ARTICLE XI: APPEALS

Section 1101 - Zoning Administrator Actions

Any interested person as defined under 24 V.S.A. §4465 may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Secretary of the Zoning Board of Adjustment, or the Municipal Clerk if no Secretary has been elected, and by filing a copy of the notice with the Zoning Administrator.

- (1) The Board shall hold a public hearing on a notice of appeal within 60 days of its filing, as required under 24 V.S.A. §4468. The Board shall give public notice of the hearing and mail a copy of the hearing notice to the appellant not less than 15 days prior to the hearing date.
- (2) The Board may reject an appeal or request for reconsideration without hearing, and render a decision which shall include findings of fact within 10 days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant 24 V.S.A. §4470; or the appellant does not have standing.
- (3) In accordance with the Act §4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in state statutes 3 V.S.A. §810. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the Board from time to time, provided that the date and place of the adjourned hearing shall be announced at the hearing.
- (4) The Board may recess the proceedings on any application pending submission of additional information. The Board should close the evidence promptly after all parties have submitted the requested information.
- (5) A decision on appeal shall be rendered within 45 days after the final adjournment of the hearing, as required under the Act §4464(b). The decision shall be sent by certified mail to the appellant within the 45 day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and the Municipal Clerk as part of the public records of the municipality. Failure of the Board to issue a decision within this 45 day period shall be deemed approval and shall be effective on the 46th day.

Section 1102 - Interested Persons

The definition of an interested person is as defined under the 24 V.S.A. §4465(b) and currently includes the following:

- (1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
- (2) The Town of Mendon or any adjoining municipality;
- (3) A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality;
- (4) Any twenty (20) persons who may be any combination of voters, residents, or real property owners within the municipality who, by signed petition to the Zoning Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality; and
- (5) Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

Section 1103 - Notice of Appeal to Zoning Board of Adjustment

A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 V.S.A. §4466:

- (1) The name and address of the appellant;
- (2) A brief description of the property with respect to which the appeal is taken;
- (3) A reference to applicable provisions of these regulations;
- (4) The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and,
- (5) The alleged grounds why such relief is believed proper under the circumstances.

Section 1104 - Appeals to Environmental Division of the Vermont Superior Court

In accordance with 24 V.S.A. §4471, an interested person who has participated in a regulatory proceeding of the Planning Commission or Zoning Board of Adjustment may appeal a decision within 30 days of such decision, to the Vermont Environmental Division of the Vermont Superior Court. Appeals to Environmental Division of the Vermont Superior Court shall also meet the following requirements:

- (1) "Participation" in a Commission or Board proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
- (2) The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the Municipal Clerk, or the Zoning Administrator if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Section 1105 – Successive Appeals; Request for Reconsideration

Per 24 V.S.A. § 4470a, the Zoning Board of Adjustment may reject an appeal or request for reconsideration without hearing and render a decision, which shall include findings of fact, within 10 days of the date of filing of the notice of appeal, if the Zoning Board of Adjustment considers the issues raised by the appellant in the appeal have been decided in an earlier appeal or involve substantially or materially the same facts by or on behalf of that appellant. The decision shall be rendered with proper notice given.

ARTICLE XII: VARIANCES

Section 1201 - Variance Criteria

The Zoning Board of Adjustment shall hear and decide requests for variances as required by 24 V.S.A. §4469(a) and appeal procedures under Article XI. In granting a variance, the Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

- (1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
- (2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) The unnecessary hardship has not been created by the appellant;
- (4) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
- (5) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

Section 1202 - Variances - Renewable Energy Structures

Where a variance is requested for a structure that is primarily a renewable energy resource structure, in accordance with 24 V.S.A. §4469(b), the Board may grant such variance only if all of the following facts are found in the affirmative and specified in its written decision:

- (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with these regulations;
- (2) The hardship was not created by the appellant;
- (3) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and,
- (4) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

Section 1203 - Variances within the Flood Hazard Area

- (a) In addition to requirements under Section 1201 of these regulations, variances for development within the Flood Hazard Overlay District shall be granted by the Board only:
 - (1) In accordance with the Act and the criteria for granting variances found in CFR Section 60.6 of the National Flood Insurance Program;
 - (2) Upon determination that during the base flood discharge the variance will not result in increased flood levels; and,
 - (3) Upon determination that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (b) For approved variances, the Secretary of the Zoning Board of Adjustment shall notify the applicant and include on the permit a notation that:
 - (1) The structure is located below the base flood elevation will result in increased premium rates for flood insurance and increases the risk of life and property; and,
 - (2) The structure is located in a regulated flood hazard area, does not conform to the bylaws pertaining thereto, and will be maintained at the risk of the owner.

ARTICLE XIII: VIOLATIONS AND ENFORCEMENT

Section 1301 - Violations

The commencement or continuation of any land development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act §§4451, 4452. Each day that a violation continues shall constitute a separate offense. The Zoning Administrator shall institute, in the name of the Town of Mendon, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality. The Mendon Selectboard shall set the schedule of fines.

Section 1302 - Notice of Violation

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act §4451. The notice of violation also shall be recorded in the land records of the municipality under Section 1501. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

Section 1303 - Limitations on Enforcement

An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred, and not thereafter, in accordance with the Act §4454. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality under Section 1501. Nothing contained in these provisions shall limit other legal and equitable remedies available to the Town.

ARTICLE XIV: PUBLIC HEARINGS

Section 1401 - Public Notice

All development review applications before the Planning Commission or Zoning Board of Adjustment shall require notice, as follows:

- (a) In accordance with the Act §4464, a warned public hearing shall be required for conditional use review, appeals of decisions of the Zoning Administrator, variances and a final plat review for subdivision. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all of the following:
 - (1) Publication of the date, place and purpose of the hearing in a newspaper of general circulation in the municipality;
 - (2) Posting of the same information in three (3) or more public places within the municipality, including the posting of a notice within view from the public right-of-way nearest to the property for which the application is being made;
 - (3) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal; and,
 - (4) For hearings on subdivision plats located within 500 feet of a municipal boundary, written notification to the clerk of the adjoining municipality.
- (b) Public notice of all other types of development review hearings, including site plan review, shall be given not less than seven (7) days prior to the date of the public hearing, and shall at minimum include the following:
 - (1) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality; and
 - (2) Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding, is a prerequisite to the right to take any subsequent appeal.
 - (3) The applicant shall be required to bear the cost of public warning and the cost and responsibility of notifying adjoining landowners as required above, as determined from the current municipal grand list. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.
 - (4) No later than 120 days from the date an application is deemed complete, the appropriate municipal panel (Planning Commission or Zoning Board of Adjustment) shall notice and warn a hearing on the application, per 24 V.S.A. §4464 (b)(1).
 - (5) No defect in the form or substance of any required public notice under this section shall invalidate the action of the Planning Commission or Zoning Board of Adjustment where reasonable efforts have been made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the Zoning Board of Adjustment or the Environmental Court, the action shall be remanded to the Board to provide new posting and notice, hold a new hearing, and take a new action.

Section 1402 - Hearings

- (a) In accordance with 24 VSA §4461, all meetings and hearings of the Planning Commission or Zoning Board of Adjustment, except for deliberative sessions, shall be open to the public. For the conduct of any hearing, and the taking of any action, a quorum shall be not less than the majority of members of the Commission or Board. The Board or Commission, in conjunction with any hearing under this bylaw, may:
 - (1) examine or caused to be examined any property, maps, books, or records bearing upon the matters

concerned in that proceeding;

(2) require the attendance of any person having knowledge in the premises;

(3) take testimony and require proof material for its information; and

(4) administer oaths or take acknowledgment in respect of those matters.

(b) In any public hearing there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria. The Planning Commission or Zoning Board of Adjustment shall keep a record of the name, address, and participation of each of these persons.

Section 1403 - Decisions

Any action or decision of a Planning Commission or Zoning Board of Adjustment shall be taken by the concurrence of a majority of the members of the Commission or Board. In accordance with the Act §4464(b), the Commission or Board shall issue a decision within 45 days after the adjournment of the hearing. Failure to issue a decision within the 45-day period shall be deemed approval and shall be effective on the 46th day. In addition:

(a) All decisions shall be issued in writing and shall separately state findings of fact and conclusions of law. Findings of fact shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions shall be based on the findings of fact. The decision shall also include a statement of the time within which appeals may be taken. The minutes of a meeting may suffice, provided that the factual basis and conclusions relating to the review standards are provided in accordance with these requirements.

(b) In rendering a decision in favor of the applicant, the Planning Commission or Zoning Board of Adjustment may attach additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Act, these regulations, and the municipal plan currently in effect. This may include, as a condition of approval:

(1) Submission of a three-year performance bond, escrow account, or other form or surety acceptable to the Mendon Selectboard, which may be extended for an additional three-year period, to assure the completion of a project, adequate stabilization, or protection of public facilities that may be affected by a project; and/or

(2) a requirement that no zoning permit be issued for an approved development until required improvements have been satisfactorily installed in accordance with the conditions of approval.

(c) All decisions of a Planning Commission or Zoning Board of Adjustment shall be sent by certified mail, within the required 45-day period, to the applicant or the appellant on matters of appeal. Copies of the decision also shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Zoning Administrator and Clerk as part of the public record of the municipality.

(d) In accordance with 24 V.S.A. § 4464 (7)(A), a decision rendered by the appropriate municipal panel (Planning Commission or Zoning Board of Adjustment) for a housing development or the housing portion of a mixed-use development shall not:

(3) require a larger lot size than the minimum as determined in the municipal bylaws;

(4) require more parking spaces than the minimum as determined by these regulations

(5) limit the building size to less than that allowed in these regulations, including reducing the building footprint or height;

(6) limit the density of dwelling units to below that allowed in the municipal bylaws; and

(7) otherwise disallow a development to abide by the minimum or maximum applicable municipal standards.

ARTICLE XV: RECORDING REQUIREMENTS

Section 1501 - Recording Requirements

(a) Within 30 days of the issuance of a municipal land use permit or notice of violation, the Zoning Administrator shall deliver either the original, a legible copy, or a notice of the permit or violation to the Municipal Clerk for recording in the land records of the municipality generally as provided in 24 V.S.A.

§1154(c), and file a copy in the Municipal Office in a location where all municipal land use permits shall be kept, as required under the Act §4449(c). The applicant may be charged for the cost of the recording fees.

(b) For development within the Flood Hazard Overlay District, the Zoning Administrator shall also maintain a record of:

- (1) All permits issued for development in areas of special flood hazard;
- (2) Elevation certificates that show the elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings;
- (3) The elevation, in relation to mean sea level, to which buildings have been floodproofed;
- (4) All floodproofing certifications required under this regulation; and
- (5) All variance actions, including the justification for their issuance.

ARTICLE XVI: DEFINITIONS

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural; the word "lot" includes "plot"; the word "shall" is mandatory; "occupied" or "used" shall be considered as though followed by "or intended, arranged, or designed to be used or occupied"; "person" includes individual, partnership, association, corporation, company or organization.

Abandon - Failure to use the property for its intended use.

Accessory Use or Structure - A use or building customarily incidental and subordinate to the principal use or building and located on the same lot. A detached garage, storage shed, shipping container, swimming pool, or other structure that is incidental and subordinate to the principal structure and located on the same lot shall be considered an accessory structure.

Accessory Dwelling Unit (Statutory Definition) - A distinct unit that is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided the property has sufficient wastewater capacity; and the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater. . 24 VSA §4303(38). See Section 603.

Act - Vermont Municipal and Regional Planning and Development Act, 24 V.S.A., Chapter 117.

Area of special flood hazard - See "special flood hazard area"

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation - the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast - An owner-occupied lodging facility located within a residential dwelling with up to six rooms for transient guests.

Bedroom - A room with an area of at least 60 square feet, a closet, at least one window, and one interior method of entry and exit.

Building - A walled and roofed structure to shelter people, animals, or goods.

Building Height - Height of building or "height" or "building height", means the exterior vertical perpendicular distance from the lowest point of the finished grade immediately adjoining the building to the finished floor level of the highest floor used as living quarters or used to otherwise accommodate or be occupied by people, or if not designed to be occupied by people, used for the activity proposed and approved for the building; for residential or non-residential purposes, to include balconies and lofts. For a building set into a hill or slope, the height shall be measured from the side of the building having the maximum height differential.

Camp - Land on which is located a shelter or other accommodation suitable for seasonal or temporary living purposes.

Club, Private - Building or use catering exclusively to club members and their guests for recreational purposes and not operated primarily for profit.

Community Center - Includes public or private meeting hall, place of assembly, museum, art gallery, or library, not operated primarily for profit.

Common Open Space – Land within a development that is designed and intended for the shared use or enjoyment

of the residents of the development and their guests. Common open space includes accessory improvements such as trails, picnic areas, or other passive recreational amenities, but shall not include streets, parking areas, or private yards. See Section 613 and Article VIII.

Conditional Use - Conditional Uses are permissible uses in a district subject to Zoning Board of Adjustment review and approval.

Conformance- A proposed development, these regulations, or the application of these regulations which: (A) Makes progress toward attaining, or at least does not interfere with, the goals and policies contained in the municipal plan in effect at the time of the proposed development; and (B) Provides for proposed future land uses, densities, and intensities of development contained in the municipal plan at the time of the proposed development; and (C) Carries out, as applicable, any specific proposals for community facilities, or other proposed actions contained in the municipal plan in effect at the time of the proposed development.

Construction - Consists of any of the following: (1) site preparation; (2) the compilation of materials; (3) the act of building the structure. Interior alterations and improvements shall constitute "construction" if they alter the structural aspects of any improvement, if they affect more than thirty (30) percent of the square footage of the improvement, if they increase the square footage of any commercial use or increase the occupancy of any residential use.

Crest - Means the uppermost line of a mountain or hill or projection thereof, or chain of mountains or hills, from which the land falls away on at least two sides to a lower elevation or elevations.

Development - The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land. For flood hazard purposes, development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

District - A specific portion of the municipality as established by the provision of Article II of these regulations.

Dwelling Unit - Building or part thereof used as living quarters for one family. The terms "dwelling", one family dwelling", "two-family dwelling", or "dwelling group" shall not include a motel, hotel, boarding house, tourist home, or similar structure.

Existing Manufactured Home Park or Subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Family - One or more persons living together in the same dwelling unit and sharing the same kitchen and other facilities as a single housekeeping unit.

Family Child Care Home - day care facility which provides for care on a regular basis in the caregiver's own residence for not more than ten children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder on a part-time basis. For the purpose of this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver; except:

- (a) these part-time school-age children may be cared for on a full-day basis during school closing days, snow days and vacation days which occur during the school year; and
- (b) during the school summer vacation, up to 12 children may be cared for provided that at least six of these children are school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are required by law to attend school (age 7 and older)

and who reside in the residence of the caregiver. 33 V.S.A. § 4902((3).

Flood Insurance Rate Map (FIRM) - An official map of a community, on which the Administrator has delineated the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

Flood Proofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flooding damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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 one foot at any point.

Gas Stations - A facility engaged in the retail sale of gasoline or other motor fuels, with associated equipment for dispensing such fuels. This includes but is not limited to the sale of fuel for on-road and off-road vehicles such as automobiles, trucks, snowmobiles, and all-terrain vehicles. A Gas Station may include accessory uses such as a vehicle service station or convenience goods. The free or retail dispensing of electricity for vehicles within approved off-street parking spaces shall not constitute a Gas Station.

Golf Courses - A nine (9) or eighteen (18) hole public or private golf course of the type approved by the P.G.A. or U.S. Golf Association containing tee boxes, fairways and greens.

Group Home - Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. § 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Historic Structure - any structure that is: (a) Listed individually in 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: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

Home Occupation - See Section 602.

Hotel, Motel, Lodge - A building or portion thereof kept, used, maintained, advertised or held out to the public to provide short term or vacation overnight accommodations to public for compensation, by the renting of rooms or a bed within a room. No unit of a Hotel, Motel or Lodge may be occupied as a residence, except for the unit or units (not more than two) occupied by the owner or operator of the establishment and their families. In addition, a hotel shall include a condominium hotel and a motel shall include a condominium motel, provided that the declaration of association (or equivalent document) provides that no unit may be occupied as a residence, meaning that the intent of the declaration shall be for short term vacation rentals. The rental of an entire dwelling unit does not constitute a lodging operation.

Impervious Surface – A surface that has been compacted or covered with a layer of material that is highly resistant to infiltration by water such as well-compacted gravel, asphalt or concrete covered areas or roofed structure.

Junk Yard - A place of outdoor storage or deposit which is for collecting, keeping, processing, buying or selling used materials or inoperable machinery, including cars, but not including an auto service station where wrecked or disabled vehicles are temporarily stored for inspection, repair or subsequent removal to a junk yard.

Lake - A body of standing water, including ponds and reservoirs that may have natural or artificial water level control. For purposes of this regulation, off-stream reservoirs specifically constructed for the following purposes shall not be considered lakes: snowmaking water storage; golf course irrigation; stormwater management; and fire suppression.

Light Industry - Any industrial use, including manufacturing, compounding, processing, packing, treatment, or warehousing, which can be carried on in such a way that neither obnoxious or excessive noise nor any smoke, vibration, dust, glare, odors, electrical interference, or heat can be detected at the boundaries of the property on which the principal building is located. Additional requirements are that it is environmentally clean with no large use or storage of hazardous materials.

Lot - A parcel of land occupied or to be occupied by a building, together with such open spaces as are required by the provisions of these regulations.

Lowest Floor - The lowest floor of the lowest enclosed area (including basement). 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 non-elevation design requirements of 44 CFR 60.3.

Manufactured or Modular Home - A structure, transportable in one or more sections, which is designed for use with a permanent foundation when connected to the required utilities. For Flood Hazard Area purposes only, the term "manufactured home" does not include a "recreational vehicle", in accordance with 44 CFR §59.1.

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 Water Level - The normal summer (June 1 – September 15) water level, measured in feet above sea level, of lakes as determined by an average of water level readings available over time or as established by the Vermont Natural Resources Board.

Mobile Home - A mobile home means a prefabricated dwelling unit which:

- (a) is designed for long term and continuous residential occupancy;
- (b) is designed to be moved on wheels, as a whole or in sections;
- (c) on arrival at the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connections with utilities, and placing on support or a permanent foundation, or installation as a unit in a previously prepared structure;
- (d) meets all other criteria and standards established by rule of the agency for distinguishing mobile homes from other types of residential units.

Multi-Family Residential - See Residence, Multi-Family below.

New Construction - for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Nonconforming Lots or Parcels - Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Zoning Administrator. 24 V.S.A. § 4303(13).

Nonconforming Structure (Statutory Definition) - A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. 24 V.S.A. § 4303(14).

Nonconforming Use (Statutory Definition) - Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator. 24 V.S.A. § 4303(15).

Owner Occupied - A residential property in which one of the dwelling units is occupied as a primary residence by the individual or couple that holds title to the property. If more than two individuals hold title to the property and any one or two of them occupy one dwelling unit in the property as their primary residence, the property would be considered owner occupied under these regulations.

Parking Space - A defined space, which is at least nine (9) feet wide and eighteen (18) feet long, outside of the right-of-way or driveway, used for the parking of one motor vehicle, with practical access to the road or right-of-way, and graveled sufficiently to permit year-round use.

Place(s) of Worship - A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes churches, synagogues, temples, mosques, or other such place for worship and religious activities.

Planned Unit Development (PUD) - An area of land, controlled by a legal or beneficial owner, to be developed as a single entity for a number of residential or nonresidential uses, or a combination of both. A planned unit development permits flexibility in building siting, lot coverage, mixtures of housing types and land uses, usable open spaces, and the preservation of significant natural features.

Professional Office - Building or portion of a building used to offer a service of a professional, business or medical nature.

Recreational Facility - A recreational land use that will be open to the public. Recreational land use on private property not open to the public are not considered a recreational facility and are exempt from these regulations.

Recreational Vehicle - a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Residence, Multi-family - A building on one lot containing separate dwelling units for three or more households, having separate or joint entrances, services or facilities.

Residential Care Home - A place, however named, excluding a licensed foster home, which provides, for profit or otherwise, room, board and personal care to three or more residents unrelated to the home operator. 33 V.S.A. § 7102(1).

Restaurant - An establishment whose principal business is the selling of food and beverages to customers seated within or adjacent to the building. Drive-up and drive-through services are prohibited.

Retail Establishment - An establishment engaged in selling goods or merchandise to the general public at retail or wholesale for personal or household consumption or for business use and rendering services incidental to the sale of such goods. Typically such an establishment (A) is a place of business and is engaged in activity to attract the general public to buy, (B) buys and receives as well as sells merchandise,

(A) may process or manufacture some of the products for sale, such as a jeweler or baker, but such production or manufacture is incidental and subordinate to the selling activities, and (D) sells to customers for their own personal, household, or business use. Such an establishment may have a retail food establishment as an accessory use located entirely within the principal structure and with no dedicated exterior entrance of its own.

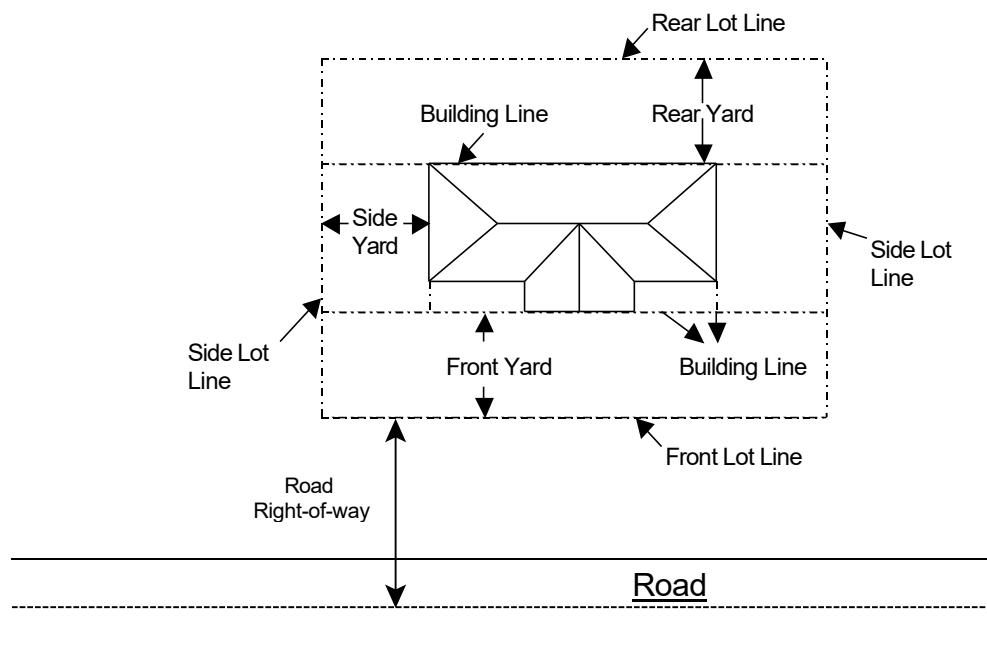
Ridgeline - See Section 310.

Setback - The distance from the lot frontage or a property line to a building or structure, excepting fences, signs, and stone walls, measured to its nearest wall, porch, or deck; but not to steps, bay windows or fireplace or normal roof overhang. Where measured from a public road or private right of way, setback distances shall be measured to the edge of the right of way (or the property line if the road or right of way is in separate fee ownership).

Front Setback: Distance between a building or structure and any lot frontage.

Rear Setback: Distance between a building or structure and a rear lot line.

Side Setback: Distance between a building or structure and a property line other than lot frontage or a rear lot line.



Ski Area Development - Commercial alpine and cross-country skiing with related lifts, trails, snowmaking ponds and systems, and day ski lodges.

Slope - The percent of slope is the vertical rise between two points, divided by the horizontal distance between those points.

Special Flood Hazard Area - the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHB). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

Start of Construction - includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such

as garages or sheds not occupied as dwelling units or not part of the main structure. 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, regardless whether that alteration affects the external dimensions of the building.

Stormwater Management – the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Story - Part of a building which is between one floor level and the next higher floor level, or if there is no floor above it then the ceiling above it. Not to exceed 15 feet.

Stream – The full length and width, including the bed and banks, or any watercourse, including rivers, creeks, brooks, and branches and intermittent watercourses that have a defined channel and evidence of water and sediment transport, even if such watercourses do not have surface water flow throughout the year or throughout the channel. For purposes of this regulation, constructed drainage ways including water bars, swales, and roadside ditches, are not considered streams.

Structure - An assembly of materials for occupancy or use including, but not limited to, a building, mobile home or trailer, billboard, sign, wall or fence greater than six (6) feet in height, except a wall or fence on an operating farm except as provided in Section 309 for Flood Hazard purposes only.

Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged conditions would equal or exceed 50 percent 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 percent of the market value of the structure before the “start of construction” of the improvement. This 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 specification 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 a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Town Plan - Plan for development of the Town prepared by the Planning Commission pursuant to 24 V.S.A. §4385.

Two-Family Home - A residential structure with two dwelling units.

Travel or Camping Trailer - Any factory built until which is registerable and usable as a vehicle for traveling or camp purposes. Said unit shall not be set up for use in a permanent manner.

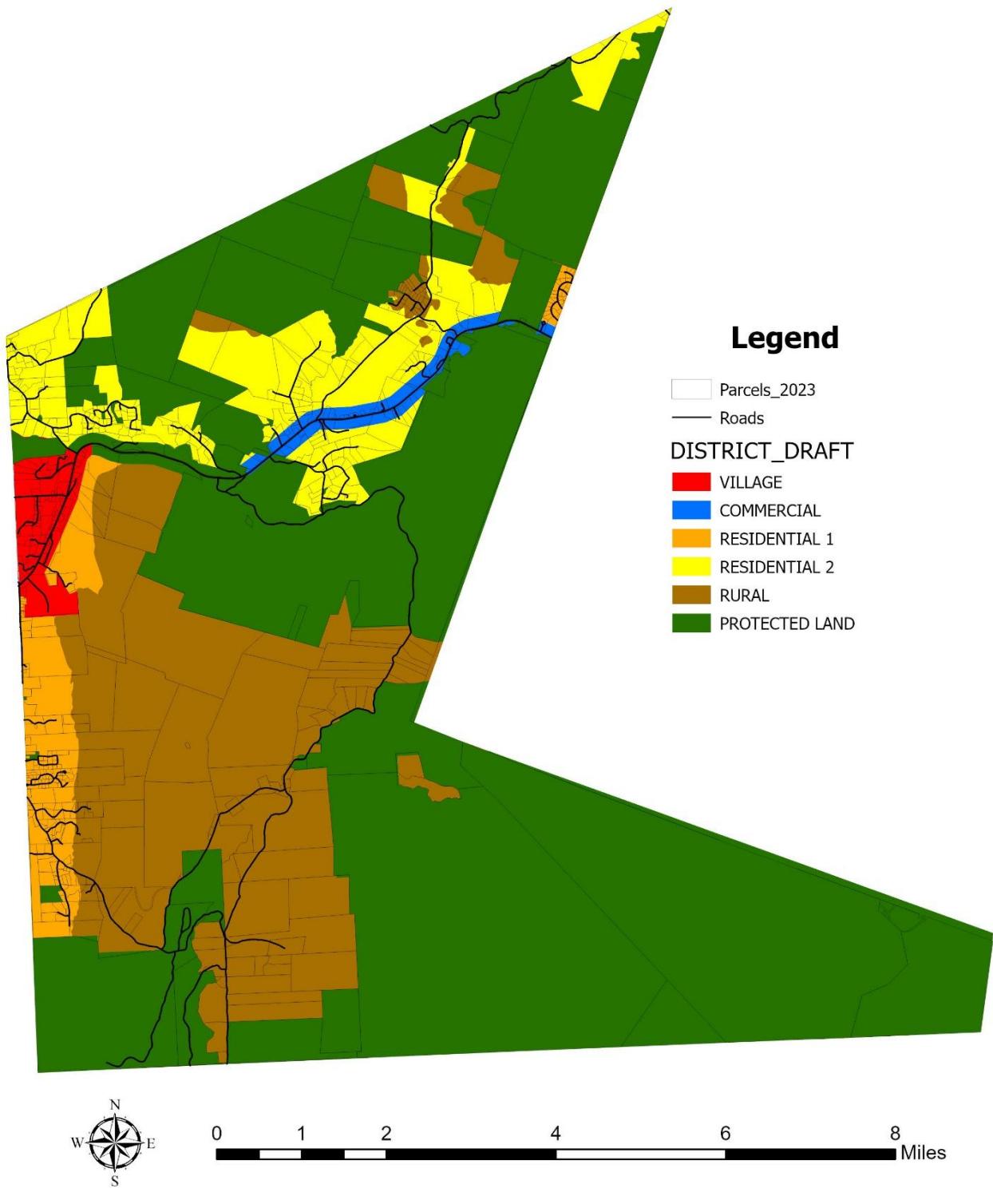
Violation - for flood hazard purposes, means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

Wetlands - lands that are inundated or saturated by surface water or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depends on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include but are not limited to: marshes, swamps, sloughs, river and lake overflows, mud flats, fens, bogs and ponds.

Zoning Administrator – the person appointed by the Mendon Selectboard to administer and implement the provisions of these regulations. See Section 901.

APPENDIX A: ZONING MAP

DRAFT TOWN OF MENDON ZONING MAP



APPENDIX B: RIDGELINE DISTRICT OVERLAY MAP

MENDON RIDGELINE OVERLAY DISTRICT MAP

