

Original Date: 12/10/97
Amendment Date: 03/08/05
Amendment Date: 11/11/2008
Amendment Date: 09/13/2011
Amendment Date: 10/10/2023

TOWN OF MOOERS

ZONING LAW

Index A-C

	Article	Section	Page
Adult Use and Entertainment Regulation Laws	4	490	37
Permitted Use Chart (RES, COM, IND ,GEN)	3	350	17-19
Permitted Use Chart (RM, C1, C2, OS)	3	351	19-21
Definitions	7		45-47
Agriculture			
Definitions	7		47
Permitted Use Chart (RES, COM, IND, GEN)	3	350	19
Permitted Use Chart (RM, C1, C2, OS)	3	351	21
Dimensional Requirements (RES, COM, IND, GEN)	3	360	23
Airport/Airstrip/Heliport			
Permitted Use Chart (RES, COM, IND, GEN)	4	470	36
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17
Permitted Use Chart (RM, C1, C2, OS)	3	351	20
Amendments			
	11	1150	68
Animals			
Keeping Of	4	460	35
Kennels	5	535	39
Appeals			
	10		64
Administration (Code Officer.... Board of Appeals)			
	11		65-66
Approval			
Of Special Use Permits	5	500	38
Of Variances with Conditions	9	950	62
Campgrounds, Travel Trailer Parks			
Definitions	5	545	41
Definitions	7		47,56
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17
Permitted Use Chart (RM, C1 ,C2, OS)	3	351	20
Camps (private) or Campers			
Definitions	4	430	27-28
Definitions	7		47
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17
Permitted Use Chart (RM, C1 ,C2, OS)	3	351	20

Index C-G

Article Section Page

Certificate Of Occupancy	11	1110	65-66
Commercial			
Definitions	7		48
Dimensional Requirements	3	360	22
Excavations	5	525	39
Retail Gasoline Outlet	5	515	39
Signs	4	445	30-31
Trucking, Warehousing And Industrial Uses	5	530	39
Off-Road Loading	4	440	30
Off-Road Parking	4	435	29
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17-18
Permitted Use Chart (RM, C1 ,C2, OS)	3	351	19-20
Conditions (Special Use Approval	8	850	60
Approval of Variance With	9	950	62
Dimensional Requirements			
RES, COM, GEN, IND	3	360	22-23
RM, C1, C2	3	361	24
Definitions	7		45-57
Enforcement	11	1140	67
Establishment Of Zones	2	200	14
Fences and Hedges	4	465	35
Frontage	3	330	15
Dimensional Requirements (RES, COM, IND, GEN)	3	360	22-23
Dimensional Requirements (RM, C1, C2)	3	361	24
Green Space Buffer	3	320	15
Dimensional Requirements (RES, COM, IND, GEN)	3	360	22-23
Dimensional Requirements (RM, C1, C2)	3	361	24

Index H-L

	Article	Section	Page
Height Exceptions	3	340	15-16
Definitions	7		49
Industrial Districts	3	370	25
Permitted Use Chart (RES, COM, IND, GEN)	3	350	18
Dimensional Requirements	3	360	23
Junk			
Definitions	7		50-51
Junk Salvage Yard	5	550	42
Keeping Of Junk	4	455	35
Permitted Use Chart (RES, COM, IND, GEN)	3	350	18
Permitted Use Chart (RM, C1, C2, OS)	3	351	20
Kennels	5	535	39
Keeping of Animals	4	460	35
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17
Prohibited (RM, C1, C2, OS)	3	351	20
Lots			
Corner Lots	4	405	26
Definitions	7		51-52
Dimensional Requirements (RES, COM, IND, GEN)	3	360	22-23
Dimensional Requirements (RM, C1, C2)	3	361	24
Existing Undersized Lots of Record	6	620	43
In Two or More Districts	2	225	14
Non-Conforming Uses	6	640	44
Principal Buildings Per Lot	4	410	26
Land Spreading			
Land Application of Class A Biosolids, Sewage Sludge, Biosolids, Biosolid products, and/or Human Waste derived products	4	450	31-34
Definitions	7		47-51, 55-57
Permitted Use Chart (RES, COM, IND, GEN)	3	350	18
Permitted Use Chart (RM, C1, C2, OS)	3	351	20

Index M-P

Article Section Page

Minimum Highway Frontage	3	330	15
Definitions	7		51
Illustration of lots with or without right of way			70

Mobile Homes			
Definitions	7		45
Dimensional Requirements (RES, COM, IND, GEN)	3	360	22
Dimensional Requirements (RM, C1, C2)	3	361	24
Not in Mobile Home Parks	4	420	27
Park Standards	5	540	40
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17
Permitted Use Chart (RM, C1, C2, OS)	3	351	19
Temporary Permit for Dwelling	4	425	27

Non-Conforming Uses	6	640	44
Definitions	7		51

Notification	11	1165	69
--------------	----	------	----

Odor Nuisance	4	475	36
---------------	---	-----	----

Off-Road Loading	4	440	30
------------------	---	-----	----

Off-Road Parking	4	435	29
------------------	---	-----	----

Outdoor Fuel Burning Heating Unit (i.e.: - Outdoor Water Stoves)	4	485	36
Definitions	7		51
*See Also....DEC Regulations, NYS Property Maintenance Code			

Permits - Extension of	4	425	27
	11	1100	65-66

Permitted Use Chart (RES, COM, IND, GEN)	3	350	17-19
Permitted Use Chart (RM, C1, C2, OS)	3	351	19-21
Explanation of	3	310	15

Index P-S

	Article	Section	Page
Pools (swimming)	4	416	26
Definitions	7		51
Regulated Activities	1	110	12-13
Residential Property			
Definitions	7		51
Residential Structures	4	415	26
Dimensional Requirements (RES, COM, IND, GEN)	3	360	22
Dimensional Requirements (RM, C1, C2)	3	361	24
Single-Family - Permitted Use Chart (RES, COM, GEN, IND)	3	350	17
Single-Family Permitted Use Chart (RM, C1, C2,)	3	351	19
Multi-Family Permitted Use Chart (RES, IND, COM, GEN)	3	350	17
Multi-Family Permitted Used Chart (RM, C1)	3	351	19
Single-Family Not Allowed (OS)	3	351	19
Multi-Family Not Allowed (C1, OS)	3	351	19
Principal Buildings Per Lot	4	410	26
Recreational Vehicles And Travel Trailers Not Located In Parks	4	430	27
Definitions	7		51
Permitted Use Chart (REC, COM, IND, GEN)	3	350	17-18
Permitted Use Chart (RM, C1, C2, OS)	3	351	19-20
Right of Way	3	330	15
Signs	4	445	30-31
Definitions	7		51
Scrap Salvage Yard	5	555	42
Permitted Use Chart (REC, COM, IND, GEN)	3	350	18
Permitted Use Chart (RM, C1, C2, OS)	3	351	20
Severability	11	1170	69
Special Use Approval/Permit			
Definition	7		51
Explanation Of Permitted Use Chart	3	310	15
General Standards For All Special Use Permits	5	510	38
Permitted Use Chart (RES, COM, IND, GEN)	3	350	17-19
Permitted Use Chart (RM, C1, C2, OS)	3	351	19-21

Index T-Z

	Article	Section	Page
Temporary Permit	4	425	27
	11	1100	65
Temporary Warehousing And Industrial Uses	5	530	39
Dimensional Requirements (RES, COM, IND, GEN)	3	360	23
Permitted Use Chart (RES, COM, IND, GEN)	3	350	18
Permitted Use Chart (RM, C1, C2, OS)	3	351	20
Vans and Trailers as Storage	4	456	35
Permitted Use Chart (RES, COM, IND, GEN)	3	350	18
Permitted Use Chart (RM, C1, C2, OS)	3	351	20
Variances (Area)			
Application	9	910	61
Approval of Variances with conditions	9	950	62
Board of Appeals	9	900	61
Definitions	7		47, 57
Non-Conforming Uses	6	640	44
Requirements for Area Variances	9	930	61-62
Requirements for Use Variances	9	940	62
Stay Upon Appeal	9	970	63
Time of Appeal	9	960	63
Variances (Use)			
Applicability	8	800	58
Application for Special Use Permit	8	820	59
Authorization	8	810	58
Conditions	8	850	60
Definitions	7		51
Review Procedure	8	840	60
Site Plan Approval	8	815	58
Waiver of Submission Requirements	8	830	60
Zoning Map	2	210	14
Zoning Map For GEN, COM, IND			71
Zoning Map For RES, RM, C1, C2, OS			71

Index pages are informational only and will be updated as needed

Notes

CONTENTS

ARTICLE 1: GENERAL PROVISIONS	
100 Title	12
105 Purposes	12
110 Regulated Activities	12-13
120 Prior Existing Laws	13

ARTICLE 2: ESTABLISHMENT OF ZONES	
200 Establishment of Zones	14
210 Zoning Map	14
220 Interpretation of Zone Boundaries on Zoning Map	14
225 Lots in Two or More Districts	14

ARTICLE 3: ZONING DISTRICT REGULATIONS	
310 Explanation of Permitted Use Chart	15
320 Green Space Buffer	15
330 Minimum Highway Frontage	15
340 Height Exceptions	15-16
350 Permitted Use Chart (RES, COM, GEN, IND)	17-19
351 Permitted Use Chart (RM, C1, C2, OS)	19-21
360 Dimensional Requirements (RES, COM, GEN, IND)	22-23
361 Dimensional Requirements (RM, C1, C2)	24
370 Industrial (IND) Districts	25

ARTICLE 4: SUPPLEMENTAL REGULATIONS	
405 Corner Lots	26
410 Principal Buildings per Lot	26
415 Residential Structures	26
416 Residential Swimming Pools	26
420 Mobile Homes, Not in Mobile Home Parks	27
425 Temporary Permit for Mobile Home Dwelling	27
430 Recreational Vehicles and Travel Trailers not Located in Parks, Camps	27-28
435 Off-Road Parking	29
440 Off-Road Loading	30
445 Signs	30-31
450 Land Application of Class A Biosolids, Sewage Sludge, Biosolids, Biosolid products, and/or Human Waste derived products	31-34
455 Keeping of Junk	35
456 Van or Trailer for Storage	35
460 Keeping of Animals (see Section 535, Page 39 Kennels)	35
465 Fences	35
470 Airport/ Airstrip/ Heliport	36
475 Odor Nuisance	36
485 Outdoor Fuel Burning Heating Unit (i.e.: - Outdoor Water stoves)	36
490 Adult Use and Entertainment Regulation Law	37

ARTICLE 5: STANDARDS FOR CONDITIONAL USES	
500 Approval of Special Use Permits	38
510 General Standards for All Special Use Permits	38
515 Retail Gasoline Outlet	39
525 Commercial Excavations	39
530 Trucking, Warehousing and Industrial Uses	39
535 Kennels (see Section 460,Page 35)	39
540 Mobile Home Park Standards	40
545 Campgrounds, Travel Trailer Parks	41
550 Junk Salvage Yard	42
555 Scrap Salvage Yard	42

ARTICLE 6: NON-CONFORMING LOTS, USES AND STRUCTURES	
600 Applicability	43
610 Intent	43
620 Existing Undersized Lots of Record	43
640 Non-conforming Uses	44

ARTICLE 7: DEFINITIONS	45-57
------------------------	-------

ARTICLE 8: SPECIAL USE APPROVAL	
800 Applicability	58
810 Authorization	58
815 Site Plan Approval	58
820 Application for Special Use Approval	59
830 Waiver of Submission Requirements	60
840 Review Procedure	60
850 Conditions	60

ARTICLE 9: VARIANCES AND APPEALS	
900 Board of Appeals	61
910 Application	61
920 Area versus Use Variance	61
930 Requirements for Area Variances	61-62
940 Requirements for Use Variances	62
950 Approval of Variances with Conditions	62
960 Time of Appeal	63
970 Stay Upon Appeal	63

ARTICLE 10: ZONING BOARD OF APPEALS REVIEW PROCEDURES	
1000 Applicability	64
1010 Review Steps, Board of Appeal Procedure	64
1020 Meeting Procedures	64

ARTICLE 11: ADMINISTRATION AND ENFORCEMENT	
1100 Zoning Permits	65
1110 Certificate of Occupancy	65-66
1120 Zoning Enforcement Officer (ZEO)	66
1130 Zoning Board of Appeals	66
1140 Enforcement	67
1150 Amendments	68
1160 Referral to the County Planning Board	69
1165 Notification	69
1170 Severability	69
1180 Effective Date	69

ZONING MAPS	
Zoning Map for GEN, COM, IND	71
Zoning Map for RES, RM, C1, C2, OS	71
Illustration of lots with or without right of way	71

ARTICLE 1 GENERAL PROVISIONS

Section 100: Title

The title of this law is the “Town of Mooers Zoning Law” and shall include this text and the official zoning maps.

Section 105: Purpose

The purposes of this law are to provide for orderly growth and change within the Town of Mooers, and to provide for the health, safety and general welfare of existing and future residents.

Section 110: Regulated Activities

- A. A Zoning or Building Permit shall be required for any of the following actions.
1. Construction of any new building or structure one hundred forty-four (144) or more square feet in area.
 2. An enlargement of any size of an existing building or structure
 3. Change in the use of a building or of land.
 4. The placement of free-standing sign within 35 feet of road right of way. (All signs must comply with section 445 of this law)
 5. Land spreading of any Human Waste Derived Products, Sewage Sludge and Biosolids
 6. Interior or exterior structural alterations or routine maintenance and improvement, that has a dollar value more than the amount set by the Town Board as exempt which will be adjusted periodically. (See Section 1100)
 7. A Building Permit Application may be completed to obtain an Emergency Services Number for a property that has no primary residence located on it for location identification purposes only. Such application shall list any prior existing structures, if any, including sizes, uses, exact location and approximate date of construction. An inspection will be completed by the Code Officer for verification. In no way shall this permit convey any right to construct or build any structures or place any pre-build unit upon the property for any purpose or exempt this property from this law in any way. Any future property improvements shall require a separate Building Permit Application at that time. A vacant property may be exempt from the permit fee by resolution of the Town Board.
 8. The use of a van or an enclosed cargo trailer as a storage area.
 9. Fences
 10. Kennel
 11. Pools – to include swimming pools and other such facilities
 12. Outdoor Fuel Burning Heating Unit (i.e.: - Outdoor Water Stoves)

13. Interior structural alterations or routine maintenance and improvement, which does not expand the exterior dimensions of a structure with a dollar value less than the amount set by the Town Board and adjusted periodically do not require a building permit. These areas may require compliance with the NYS Building Laws (page 13).
- B. The following activities do not require a Zoning Permit but must meet the requirements of this law
1. The keeping of junk. (See Section 455)
 1. The keeping of certain animals. (See Section 460)
 3. The placement of hedges, trees or shrubs within the entire Town of Mooers. (See Section 465) (Also see Local Law Number 1 of the year 2006, Regulating parking upon or obstruction of public sidewalks)
 4. Division of any parcel of property will require the completion of a Division of Property form and a review by the CEO or, at the discretion of the CEO, it can be referred to the ZBA to insure no violation of this law will exist by separating the property into two (2) or more parcels. A charge may apply to this procedure. (See Section 1100)
 5. The establishment of a home occupation, as defined herein, in an existing residential structure or other building. (see Page 48)
- C. The following activities are not regulated by this law and do not require a Zoning Permit, however; an inspection by the ZEO may be required to determine compliance with the NYS Uniform Building Code (Local Law #1 of 1988, filed with the State on 3/10/1988) and any revisions thereof.
1. Satellite dishes, chimneys, posts, and similar structures.
 2. Temporary yard sales, porch sales, garage sales and sales of a similar nature, which are held less than thirty (30) days per year.
 3. Temporary signs. (See definition of temporary sign.)

Section 120: Prior Existing Laws

This zoning law shall replace and supersede the following Town of Mooers Local Laws.

- A. “Local Law Number 1 of the year 1990. A local law prohibiting the dumping, storing, placing or incineration of solid or liquid waste material in the Town of Mooers.”
- B. “Local Law Number 2 of the year 1993. A local law regulating single family dwellings, mobile homes, mobile home parks, campgrounds, travel trailer parks, junk, recreational vehicles, and travel trailers.”
- C. “Local Law Number 2 of the year 1997. A local law which provided zoning in the Town of Mooers.”
- D. “Local Law Number 1 of the year 2005. A local law which provided zoning in the Town of Mooers.”
- E. “Local Law Number 6 of the year 2008. A local law which provided zoning in the Town of Mooers.”

ARTICLE 2 ESTABLISHMENT OF ZONES

Section 200: Establishment of Zones

For the purpose of this law, the Town of Mooers is hereby divided into the following zones:

RM Residential Mixed Use
C1 Commercial 1
C2 Commercial 2
OS Open Space Conservation

RES Residential
COM Commercial
GEN General Use
IND Industrial (see section 370)

Section 210: Zoning Map

Said districts are bounded as shown on the Town of Mooers Zoning Map, which, with all explanatory matter, is hereby made part of this law.

Section 220: Interpretation of Zone Boundaries on Zoning Map

Boundary lines generally follow road lines, property lines, rivers, and streams or 1000 feet setbacks from highways. Questions concerning the precise location of zone boundary lines shall be resolved by the Board of Appeals under their powers of interpretation.

Section 225: Lots in Two or More Districts

If a lot lies in two or more zoning districts, each portion of the lot shall be governed by the regulations of the district in which it lies. Upon special authorization of the Zoning Board of Appeals, and after public hearing, the provisions of the less restricted portion of the lot may be extended into the more restricted portion of the lot.

ARTICLE 3 ZONING DISTRICT REGULATIONS

Section 310: Explanation of Permitted Use Chart

Land uses designated by an “x” on the permitted use charts (Section 350 and 351 herein) are allowed uses within the zone.

Land uses designated by an “s” on the permitted use charts are uses allowed by Special Use Permits. The Zoning Board of Appeals must review and approve all uses allowed by Special Use Permit before a Zoning Permit may be issued.

Land uses designated by an “n” on the permitted use charts are not allowed within the zone.

Existing Undersized Lots may not be adequate for certain uses. (Section 620)

A use shall be deemed prohibited within a zoning district unless it is listed as a permitted use,

If the property does not meet the lot dimensional requirements, then a Special Use Permit may not be issued, unless an area variance is obtained.

Section 320: Green Space Buffer

- A. The green space buffer required by Sections 360 and 361 herein must be maintained as a vegetated area. No driveways, parking lots, or storage of materials or vehicles is permitted, nor shall the buffer be used as a work area.
- B. At the time of Special Use Approval the Zoning Board of Appeals shall have the authority to reduce the minimum width of the green space buffer on any side without the issuance of a variance, provided that the side does not border upon an existing residential property.

Section 330: Minimum Highway Frontage

Each new building lot shall be accessible to a public road or to a private drive. Accessible shall mean that:

- A. The building lot directly fronts upon the road for the minimal highway frontage width indicated in Sections 360 and 361 herein, or
- B. A legally sufficient right-of-way easement has been obtained for the minimal highway frontage width required in Sections 360 and 361 herein.
- C. Each property not bordering a public roadway must have a deeded **50' Wide Right of Way** to allow access to and from the public roadway for all purposes. The area of this Right of Way will not be used in calculating the area for the minimum lot size requirement.
- D. No structure can be constructed within this right of way.

Section 340: Height Exceptions

The height limitations of Sections 360 and 361 shall apply to all structures except:

- A. Churches, chimneys, flagpoles, farm structures, radio or television antennae, and electrical transmission towers and cables.

B. Private alternate energy source towers must be positioned on the property such that the tower base is located a distance of 1 and $\frac{1}{2}$ times the total height to top of the highest point including rotors from property boundary.

Section 350: Permitted Use Chart

RES =	Residential	COM=	Commercial
GEN =	General	IND =	Industrial
p =	Permitted (when in compliance to dimensional requirements)		
s =	Permitted after Special Use Approval		
n =	Not Allowed		

NOTE: uses must meet all dimensional requirements.

Any use not listed below is not allowed unless approved any Zoning Board of Appeals by use variance or by amendment to zoning laws when necessary.

RESIDENTIAL USES	RES	IND	COM	GEN
Single family	p	n	P	P
Doublewide	P	n	P	P
Two family dwelling	s	n	s	s
Multi-family dwelling	s	n	s	s
Mobile home, single-wide	n	n	n	P
Mobile home park	n	n	n	s

GENERAL USES	RES	IND	COM	GEN
Adult use and Entertainment Establishments	n	s	s	s
Airport	n	s	s	s
All adult use license cannabis types	n	s	s	s
Antique, craft or gift shop (as a home occupation)	s	P	P	p
Bed & Breakfast establishment	s	P	P	P
Camp	n	n	n	P
Campground	n	n	n	s
Construction, well drilling business	n	P	P	P
Essential services (except for local use and need)	n	s	s	s
Feed store, farm supplies	n	P	P	P
Food or ice cream stand	n	P	P	P
Funeral home	n	P	P	P
Gasoline and auto service station	n	s	s	s
Gun shop, fishing tackle shop	n	P	P	P
Home occupation	s	P	P	P
Indoor recreation	s	s	s	s
Kennel	n	s	s	s
Launderette	n	P	P	P
Lawn, garden, or farm equipment sales	n	P	P	P
Membership club (VFW, etc.)	n	s	s	s
Mobile home sales	n	s	s	s
Motel, hotel, cabins	n	n	n	s
Motor vehicle race track	Prohibited in all zones			
Motor vehicle repair shop	n	s	s	s

GENERAL USES

	RES	IND	COM	GEN
Motor vehicle sales	n	s	s	s
Neighborhood convenience store, with gas	n	s	s	s
Neighborhood convenience store, without gas	n	s	s	s
Nursery, florist, greenhouse	n	P	P	P
Other commercial uses	n	s	s	s
Outdoor recreation	n	s	s	s
Personal service business	s	P	P	P
Produce sales	n	P	P	P
Professional or business office	s	P	P	P
Public and semi-public buildings and grounds	n	P	P	p
Rendering Plant	Prohibited in all zones			
Restaurant	n	s	s	s
Retail store not specifically listed in this section	n	s	s	s
Sand or gravel extraction	n	s	s	s
Shopping center	n	s	s	s
Slaughterhouse	n	s	s	n
Tavern, bar, nightclub	n	s	s	s
Truck stop	n	s	s	s
Used merchandise or furniture	n	s	s	s
Van or Trailer, used as storage area	n	P	P	P
Veterinarian, animal hospital	n	s	s	s

INDUSTRIAL, WAREHOUSING AND TRUCKING USES

Fuel oil distribution	n	s	s	s
Heavy Industrial use	n	s	n	n
Light Industrial use	n	s	s	s
Mining (see Page 50)	n	s	n	n
Research/testing laboratory	n	s	s	s
Sawmill, Trucking or similar uses	n	s	s	s
Warehouse and distribution	n	s	s	s

WASTE AND SCRAP DISPOSAL

Land Application, stockpiling/ storage of Biosolids, Biosolid Products, and/or Human Waste Derived Products See Section 450	n	s	s	s
Class A Biosolids	P	P	P	P
Incineration	Prohibited in all zones in this chart			
Liquid waste	n	s	n	n
Scrap Salvage Yard	n	s	s	s
Junk Salvage Yard	n	s	s	s
Solid waste	n	s	s	s

OTHER USES

Accessory structure or use	P	P	P	P
Agriculture structure and use	P	P	P	p

Section 351: Permitted Use Chart

p = Permitted (when in compliance to dimensional requirements)

s = Permitted after Special Use approval

n = Not Allowed

RM = Residential Mixed

C1, C2= Commercial Zones

OS = Open Space Conservation

Any use not listed below is not allowed unless approved by Zoning Board of Appeals by use variance or by amendment to zoning laws when necessary.

RESIDENTIAL USES

	RM	C1	C2	OS
Single family dwelling	P	P	P	n
Doublewide	P	P	P	n
Two family dwelling	P	s	s	n
Multi-family dwelling	s	n	n	n
Mobile home, single-wide	n	n	n	n
Mobile home park	n	n	n	n

GENERAL USES

	RM	C1	C2	OS
Antique, craft or gift shop	s	s	s	n
Bed & Breakfast establishment	s	s	s	n
Essential services	s	s	s	s
Feed store, farm supplies	n	s	s	n
Food or ice cream stand	s	s	s	n
Funeral home	s	s	s	n
Gasoline and auto service station	n	n	s	n
Gun shop, fishing tackle shop	s	s	s	n
Home occupation	s	P	P	n
Indoor recreation	s	s	n	n
Launderette	n	n	s	n
Lawn, garden, or farm equipment sales or repairs	s	s	s	n
Membership club (VFW, etc.)	s	s	s	n
Mobile home sales	n	n	s	n
Motel, hotel, cabins	n	n	s	n
Motor vehicle repair shop	n	n	s	n
Motor vehicle sales	n	n	s	n
Neighborhood Convenience store	s	s	s	n
Nursery, florist, greenhouse	s	s	s	n
Outdoor recreation	n	n	n	n
Personal service business	s	s	s	n

Produce sales	s	s	s	n
Professional or business office	s	s	s	n
Public and semi-public buildings & grounds	s	s	s	n
Restaurant	s	s	s	n

General Uses

	RM	C1	C2	OS
Retail store not specifically listed in this section	s	s	s	n
Sand or gravel extraction	n	n	n	n
Shopping center	n	n	s	n
Truck stop	n	n	n	n
Used merchandise or furniture	s	s	s	n
Van or Trailer, used as storage area	n	n	s	n
Veterinarian, animal hospital	n	n	s	n
Well drilling, construction business	n	n	n	n

INDUSTRIAL, WAREHOUSING AND TRUCKING USES

	RM	C1	C2	OS
Fuel oil distribution	n	n	n	n
Light industrial use	n	n	n	n
Mining (see Page 50)	n	n	n	n
Research/testing laboratory	n	n	n	n
Sawmill, Trucking or similar uses	n	n	n	n
Warehousing and distribution	n	n	n	n

PROHIBITED USES

	RM	C1	C2	OS
Land Application of Biosolids, Biosolid Products, and/or Human Waste Derived Products	Prohibited in all zones in this chart			
Solid or liquid waste disposal, including incinerators	See Section 450			
Adult use and Entertainment Establishment Airport/ Airstrip / Heliport Camp Campground Heavy industrial use Junk Salvage Yard Kennel Motor vehicle racetrack Rendering Plant Scrap Salvage Yard Slaughterhouse Tavern, Bar, Nightclub	Prohibited in all zones in this chart			

OTHER USES

	RM	C1	C2	OS
Accessory structure or use	P	P	P	n
Agriculture structure and use	P	P	P	p

Section 360: Dimensional Requirements

RES
COM
GEN
IND
ZONES

A. Single Family Dwelling or Individually Sited Mobile Home

Minimum lot size (square feet)	40,000
Minimum lot width (feet) (see note 1)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way of all public roads	35
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	30
Maximum height of structures (feet)	35

B. Two Family Dwelling or Multi-Family Dwelling

Minimum lot size <i>first unit (square feet)</i>	40,000
Each additional unit (square feet)	10,000
Minimum lot width (feet)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way	35
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	30
Maximum height of structures (feet)	35
Minimum green space buffer, side and rear (feet)	15

C. Residential Accessory Structure

Minimum building setback from highway right-of-way	35
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15

Note 1 - Last available lot in a tract of land may be sold at a 100' minimum *width and meet all other requirements*

D. Commercial and General Uses

Minimum lot size (square feet) <i>unless otherwise specifically noted</i>	40,000
Minimum lot width (feet)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way	35
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	30
Maximum height of structures (feet)	35
Minimum green space buffer, side and rear (feet)	15

**RES
COM
GEN
IND
ZONES**

E. Industrial, Trucking and Warehousing Uses

Minimum lot size (square feet)	80,000
Minimum lot width (feet)	200
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way	35
Minimum building setback, each side (feet)	40
Minimum building setback, rear (feet)	40
Maximum lot coverage by buildings (percent of lot)	30
Maximum height of structures (feet)	35
Minimum green space buffer, side and rear (feet)	40

F. Agricultural Structures

Minimum building setback from highway right-of-way	35
Minimum building setback, each side (feet)	40
Minimum building setback, rear (feet)	40

Section 361: Dimensional Requirements

C1,C2, RM Zones

A. Single Family Dwelling or Individually Sited Mobile Home

Minimum lot size (square feet)	40,000
Minimum lot width (feet)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way (feet)	30
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	35
Maximum height of structures (feet)	30

B. Two Family Dwelling or Multi-Family Dwelling

Minimum lot size (square feet)	
First unit (square feet)	40,000
Each additional unit (square feet)	5,000
Minimum lot width (feet)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way (feet)	30
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	35
Maximum height of structures (feet)	30

C. Residential Accessory Structure

Minimum building setback from highway right-of-way (feet)	30
Minimum building setback, each side (feet)	45
Minimum building setback, rear (feet)	15

D. Non-Residential Uses

Minimum lot size (square feet)	30,000
Minimum lot width (feet)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way (feet)	30
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	35
Maximum height of structures (feet)	30

E. Mixed Use (Residential plus Non-Residential)

Minimum lot size (square feet)	40,000
Minimum lot width (feet)	150
Minimum road frontage (feet) of right of way	50
Minimum building setback from highway right-of-way (feet)	30
Minimum building setback, each side (feet)	15
Minimum building setback, rear (feet)	15
Maximum lot coverage by buildings (percent of lot)	35
Maximum height of structures (feet)	30

Section 370: Industrial (IND) Districts

A. Intent and Purpose

The purpose of this section is to facilitate the rezoning of a portion of the town for industrial use on a case-by-case basis, provided that certain criteria are met. Because there were no clearly defined areas for heavier industrial use in the Town of Mooers when this law was passed, it was inappropriate to designate such areas on the zoning map at that time.

It is intended that Industrial Zones become established in the future by amending the zoning map upon the request of an applicant for an industrial use, or by a decision of the Town Board to otherwise create such a district on the map.

B. Criteria for Establishment of Industrial Districts (IND)

1. The minimum size industrial zoning district shall be five hundred (500) acres.
2. In establishing an industrial district, benefits to the general welfare of the town shall be weighed against possible adverse impacts to the environment and surrounding properties.
3. Adverse impacts to the environment and surrounding properties shall be minimized to the extent practicable.

C. Dimensional Requirements of Industrial Districts (IND)

1. Dimensional requirements shall be those stated in Section 360 herein.
2. In addition, there shall be a minimum two hundred fifty (250) feet green space buffer around all sides and the rear of an Industrial District.

E. Procedures for Establishing Industrial Districts (IND)

1. The Zoning Board of Appeals shall submit an advisory opinion to the Town Board on the proposed map amendment creating an Industrial District
2. The procedures for amending this zoning law as specified in Section 1150 herein shall then be followed.

ARTICLE 4
SUPPLEMENTAL REGULATIONS FOR ALL ZONES

Section 405: Corner Lots

On corner lots, the sides facing both streets shall be considered front yards. On the other sides, one shall be considered a rear yard and the other a side yard, at the owner's option.

Section 410: Principal Buildings per Lot

- A. Except as provided by part B below, there shall be only (1) one residential structure per lot. A residential structure means the building used as a dwelling, and does not include accessory structures. Two or more residential units, which are attached and share a common wall, such as attached townhouse units or a row type building, shall be deemed to be a multiple residential structure.
- B. Exception. In addition to the principal dwelling, one mobile home dwelling may be placed on an active farm provided that it is occupied by a person employed in the operation of the farm. Such mobile home must be removed within six (6) months of the date it ceases to be used for such purpose.

Section 415: Residential Structures

- A. This section shall apply to all single family, two family, and multi- family dwellings, including single and double wide mobile homes.
- B. The minimum square footage for a single-family dwelling shall be six hundred (600) square feet in ground area. For any other dwelling the area of each unit will be specified and approved in the Zoning Board of Approval process.
- C. Each residential structure shall have a well; and a Clinton County Health Department approved septic system.
- D. All residential structures shall be placed upon a permanent foundation extending below the frost line, or upon a reinforced concrete slab at least four (4) inches thick, which extends the full length and width of the structure.

Section 416: Residential Swimming Pools

Residential pools must comply with dimensional setbacks according to the zone the pool is in.

Section 420: Single and Double Wide Mobile Homes, Not in Mobile Home Parks

- A. All mobile homes shall comply with the requirements of Section 415 above.
- B. All mobile homes shall be in compliance with standards equal to or more stringent than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976) and any amendments and revisions thereto. The certification labels of such compliance shall be attached to the mobile home as specified in HUD regulations.
- C. All mobile homes shall be at least twelve (12) feet wide.
- D. Each mobile home shall be provided with skirting to screen the space between the mobile home and the ground. Skirting shall be of non-transparent durable material such as wood, stone, cement block, or vinyl, and shall not consist of wire mesh, bales of hay, or transparent plastic. The appearance of skirting shall be in keeping with the character of a residential area. Such skirting shall be installed within ninety (90) days of occupancy.
- E. No mobile home shall be used for any purpose other than as a single-family residence, unless redesigned by an engineer according to New York State Property Maintenance Code.

Section 425: Temporary Permit for Mobile Home Dwelling

An existing single wide mobile home that has been the residence on a lot may be used as interim shelter while a permanent dwelling is under construction on the same property, provided that a temporary permit is obtained in accordance with Section 1100, Part H of this law.

Section 430: Camps: RV's or structures privately owned less than 600 sq feet to only be used as a temporary or occasional use residence. Any unit in this section cannot be used as a permanent residence.

- A. This section shall apply to recreational vehicles and travel trailers, including but not limited to motor homes, truck campers, camping trailers, travel trailers, that are not placed in a legally established travel trailer park or campground.
- B. Any structures to be used as a camp, must not be more than (1 ½) one and one half stories not to exceed 18 feet high from foundation to the highest point on the roof.
- C. There shall be only one such recreational vehicle, travel trailer, etc. or structure per lot.
- D. All setbacks will be measured from highway right of way or boundary of private right of way.
- E. Dimensional charts Sections 360 and 361 shall apply unless superseded by this section, which ever is greater shall apply.
- F. Nothing in this Section shall prevent the parking and storage of an unoccupied recreational vehicle or travel trailer on the same lot as one's home.
- G. Every property must have emergency service vehicle access and access must be opened when occupied.
- H. This section shall not include single and doublewide mobile homes.

Camps or RV's less than 500 feet from edge of road:

1. Clinton County Health Dept. approved septic system and leach field.
2. A well is required.
3. Privy is not allowed.
4. Septic system must be one hundred (100) feet away from wet land.
5. A Camp structure must have a frost protected foundation and engineer stamped set of plans.
6. RV's must be placed on a cement slab.
7. Maximum occupancy must not exceed one hundred twenty (120) days per year.
8. Minimum of 40,000 sq feet in excess of a fifty (50) foot deeded or owned right of way if property does not border on roadway. Right of way is not used to compute acreage.

Camps or RV's more than 500 feet from edge of road:

1. Septic system or privy is required.
2. Septic system or privy must be one hundred (100) feet away from wetlands.
3. Minimum of 40,000 sq feet beyond the five hundred (500) foot point in excess of 50 foot of deeded or owned right of way. Roadway is not used to compute acreage.
4. Allowed to build (1 ½) one and one half story, not taller than eighteen (18) ft.
5. Maximum occupancy must not exceed one hundred twenty (120) days per year.

Camps or RV's on same property as primary residence

1. Septic system or privy is not required.
2. Minimum of ten (10) acres including residence.
3. Must be a minimum of five hundred (500) ft back from edge of road.
4. Septic or privy must be one hundred (100) ft away from wetlands.
5. Maximum occupancy must not exceed one hundred twenty (120) days per year.

RV's (temporary) use during construction

1. Shall not include a singlewide or doublewide mobile home.
2. Temporary use for one (1) year.
3. Requires Zoning Board of Appeals approval of variance.
4. Require a Clinton County Health Dept. approved septic system and leach field.
5. Maximum occupancy must not exceed one hundred twenty (120) days per year.
6. Must be removed upon expiration of permit on the certificate of occupancy or once the building is occupied whichever is first.
7. A well is required.

RV's for occasional use:

1. Not to exceed more than 7 days on property at one time for a total of thirty (30) days per year.
2. No septic disposal allowed.
3. Minimum of 40,000 sq feet beyond the five hundred (500) foot point in excess of fifty (50) foot of deeded or owned right of way. Roadway is not used to compute acreage.

Section 435: Off-Road Parking

- A. All uses shall be provided with sufficient off-road parking to accommodate all vehicles for customers and employees during peak use periods.
- B. An off-road parking space shall not be less than 9 by 20 feet. Driveway area may be used to supply such space in the case of single family or two family residences. Other uses shall provide such space in addition to the driveway area.
- C. No non-residential parking space shall be located within ten (10) feet of a side lot line.
- D. All parking areas for uses other than single-family dwellings shall be designed to allow vehicles to exit front first onto roads.
- E. Existing uses must comply with off-road parking requirements if the use changes, if the use expands its gross floor area by twenty-five (25) percent or more during a three year period, or if the use is discontinued for a period of one year and seeks to be re-established.
- F. In calculating the number of required parking spaces, fractional portions shall be rounded to the nearest whole space.
- F. Parking lots for places of public assembly and commercial or business uses shall require a Zoning Permit for placement.

Minimum requirements:

Bowling alley	3 spaces per alley
Church, meeting hall, auditorium, or other place of public assembly not otherwise classified	1 space per 4 seats or 50 sq. ft. of seating area where fixed seating is not provided
Eating and Drinking establishments	1 space per 3 seats or stools
Funeral homes	1 space per 4 seats
Industrial use	1 space per employee on largest shift plus visitor parking
Motel/Hotel or Tourist accommodation	1 space per each sleeping room
Motor vehicle repair	1 space per 200 square foot of floor area
Multi-family dwellings for senior citizens	1 space per dwelling unit
Professional Offices	1 space per 200 sq. ft. of office area
Residential use, except multi-family dwellings for senior citizens	2 spaces per dwelling unit
Retail Stores and area	1 space per 200 sq. ft. of Retail Service Shops
Shopping Center	1 space per 250 sq. ft. of gross business area

For uses not specifically listed, the requirement shall be the same as for the most similar use listed, or as otherwise provided in this law.

- H. The Zoning Board of Appeals shall have the authority to lower or raise the requirements stated in “G” above at the time of Special Use approval. Requirements may be lowered if the developer can demonstrate the need for fewer parking spaces.

Section 440: Off-Road Loading

Business uses shall provide off-road loading space on the site sufficient for the loading and unloading of any trucks, which are anticipated to use the site in the future. Loading areas may not be established within front, side or rear setbacks.

Section 445: Signs

A. Maximum height of signs: twenty (20) feet, except for a free-standing gasoline sales establishment sign, which may be no higher than forty (40) feet above ground level.

B. Maximum number of signs:

Zones (RES, RM, C1)	<p>1 free-standing sign 24 square feet or over not to exceed 32 square feet 1 free-standing sign under 24 square feet Any quantity attached signs under 64 square feet per sign not to total in excess of 15% of building wall</p>
All other Zones (C2, GEN)	<p>1 free-standing sign 24 square feet or over not to exceed 64 square feet 5 free-standing signs under 24 square feet Any quantity attached signs under 64 square feet per sign not to total in excess of 25% of building wall</p>

C. In zone OS, one freestanding sign under 24 square feet not placed more than 15 feet from road right of way.

D. No sign shall obscure a line of sight for traffic, or otherwise constitute a traffic hazard. All signs shall be placed at least twenty (20) feet from any side lot line and five (5) feet from the highway right-of-way. No free-standing sign shall be placed in such a manner as to obstruct or obscure the view of traffic and shall meet NYS DOT specifications.

E. Reader Board/Changing letter type signs such as LED that allow for the changing of letters are allowed with a constant on time of two (2) seconds minimum per line are not to exceed sixteen (16) square feet. Any sign with flashing lights internal or external are not allowed in any district.

F. In calculating the area of a free standing sign with lettering on both the front and the back, the areas of both sides of the sign shall not be added together for purposes of computing the total area of the sign.

- G. All signs of a temporary nature, except as otherwise provided by this section, shall be permitted for a period not exceeding thirty (30) days prior to the activity or event and not exceeding four (4) days after the activity or event. Such signs shall not exceed eight (8) square feet in all districts. Signs shall not be attached to fences, trees, utility poles, rocks or other parts of a natural landscape; and shall not be placed in a position that will obstruct or impair traffic, or in any manner create a hazard or disturbance to the health, safety, and welfare of the general public. All other signs not meeting this description will be prohibited.

Section 450: Land Application of Class A Biosolids, Sewage Sludge, Biosolids, Biosolid products, and/or Human Waste Derived Products.

CLASS A BIOSOLIDS

Class A Biosolids are permitted. A special use permit is not required; however, the CEO must be notified thirty (30) days prior to delivery of the material.

Storage of Class A Biosolids:

1. Product must be stored in a location with low potential for human contact.
2. Storage locations must be located on level areas that will minimize potential for surface water contact.
3. Storage locations must be setback a minimum of twenty-five (25) feet from property boundaries and public roadways, fifty (50) feet from surface waters, one hundred (100) feet from private drinking wells, and three hundred (300) feet from public water supplies.
4. In 100-year floodplains, product may be stored up to ninety (90) days during the summer months, but may not be stored from late fall to early spring.
5. Products must be utilized within two (2) years of delivery date.

Utilization of Class A Biosolids:

1. Product must not be applied at a rate greater than the maximum application rate determined by supplier.
2. Product must not be applied when the ground is frozen, snow covered, or water-saturated.
3. Product must not be applied in diversions, drainage ditches, gullies, non-vegetated swales, ravines or on bedrock outcrops.
4. Product must not be applied within twenty-five (25) feet from property boundaries and public roadways, fifty (50) feet from surface waters, one hundred (100) feet from private drinking wells, and three hundred (300) feet from public water supplies.

LAND APPLICATION

No person shall land apply Biosolids, sewage sludge, or human waste derived products in the Town until all of the procedural requirements set forth in this ordinance as well as those set forth in applicable Federal and New York State laws and regulations have been satisfied.

No owner shall permit land application of Biosolids, sewage sludge, or human waste derived products on land in the Town until all of the procedural requirements set forth in this ordinance and those set forth in applicable Federal and New York State laws and regulations have been satisfied.

Land application of Biosolids, sewage sludge, or human waste derived products shall not encroach into the 100 year floodplain as established by the Federal Emergency Management Agency, and displayed in the most current version of the Flood Insurance Rate Map for the area in question.

Land application of sewage sludge or Biosolids, sewage sludge, or human waste derived products shall not encroach within 100 feet of any stream, river, or other surface water body.

Land application of sewage sludge or Biosolids, sewage sludge, or human waste derived products shall not encroach within 100 feet of any property boundary.

Land application of Biosolids, sewage sludge, or human waste derived products must be accomplished within one week of depositing the material or storage of the material on site or on lands of the owner, unless unforeseen weather conditions or other circumstances reasonably beyond the control of the permittee prevent spreading.

Land application of Biosolids, sewage sludge, or human waste derived products must be accomplished in an application rate that is in accordance with the manufacturer's recommendations for use, and shall not exceed 40 cubic yards of material per acre per calendar year.

Land application activities should be scheduled so as to avoid conflicts with community and social events in the vicinity of the land application site.

Land application of above product(s) must comply with the following:

Land application is prohibited in areas where ground water is within 24 inches of the ground surface at time of application.

Land application is prohibited in areas where bedrock lies less than 24 inches below the ground surface.

Land application is allowed only on soils of at least 6" of existing topsoil and not to be used as a soil filler, replacement or supplement.

The land application rate must not exceed the agronomic rate of the rate of lime addition designed to achieve a soil pH value in an acceptable range for the crop grown. The application rate must be sufficiently reduced to insure appropriate application rates are not exceeded if supplemental fertilizer or manure is going to be added to the site, based on information provided by the farm owner or operator.

In all cases, the product that is land applied must be incorporated into the soil within 48 hours after application, unless concerns regarding odor and surface runoff can be mitigated by other means, and the zoning board approves such means.

Land application is prohibited on water-saturated ground or during heavy rainfall. Land application is prohibited on snow-covered or frozen ground, except by direct injection below the land surface.

Proper soil conservation practices and agricultural management practices must be used to minimize runoff and soil loss through erosion.

Land application of solid product is prohibited on land with a slope exceeding 15 percent. Land application of liquid product with a total solids content of less than 15 percent is prohibited on land with a slope greater than 8 percent, unless applied by subsurface injection along paths parallel to contour lines for the land.

STORAGE OR STOCKPILING

No person shall operate a storage facility or stockpile for Biosolids, sewage sludge, or human waste derived products within the Town without receipt of a special use permit from the Town, if applicable.

ODORS

No person shall land apply or stockpile Biosolids, sewage sludge, or human waste derived products generating odors offensive to persons of ordinary sensibility across property lines for two weeks or more after completed land application. If odors persist for more than two weeks after application, the owner shall be required to remedy the odor through means such as tilling of the land, or spreading of some other permitted soil over the land to reduce the odor.

EXCEPTIONS TO THESE REGULATIONS:

These regulations do not apply to onsite disposal of human waste and septage through an approved onsite septic system or onsite sewage treatment process. These regulations also do not apply to any bagged Biosolid product or human waste derived product that is sold in a bagged form, and which remains in bagged form until used by the purchaser.

MONITORING AND SAMPLING:

By agreeing to accept Biosolids, sewage sludge, or human waste derived products for land application, the owner of a property on which land application takes place agrees to allow the Town Codes Enforcement Officer access to the land application site for the purpose of monitoring land application activities. It is the responsibility of the permittee and/or applicator to ensure that the property owner is advised of this requirement. The Codes Enforcement Officer (CEO) shall make diligent efforts to contact the property owner prior to entering the property.

The permit holder and the owner shall allow the Town Codes Enforcement Officer to take samples at the application site before, during, and after the application. Any test samples shall be analyzed at a lab qualified to determine compliance with all applicable laws and regulations. At the request of the applicator, the Codes Enforcement Officer shall provide the owner with a split sample.

Upon completion of the analysis, the results shall be provided to the Town and the owner of the property in question. If the tests indicate that the Biosolid, sewage sludge, or human waste derived product does not meet Federal and New York State established standards for regulated pollutants, pathogens, heavy metals, carcinogenic materials, and other state and federal hazardous wastes, the Town may notify the State and Federal governing agencies of the deficiencies of the product, and request cleanup of the product at the owners expense.

No person shall dispose of or stockpile sewage sludge, Biosolids, Biosolid products, and human waste derived products, on land located in the Town of Mooers except in accordance with federal and state laws and regulations and this ordinance as enumerated in Section 450.

No person shall apply Biosolids, Biosolid products, and human waste derived products on lands in the town until all of the procedural requirements set forth in this ordinance as well as those set forth in applicable federal and state laws and regulations have been satisfied. No owner shall permit land application of Biosolids, Biosolid products, and human waste derived products on land in the town until all of the procedural requirements set forth in this ordinance and those set forth in state and federal law and regulation have been satisfied.

The creation and /or operation of sanitary landfills, dumps, dumping grounds, or incinerators within the Town of Mooers for solid or liquid waste coming from inside or outside the boundaries of the Town of Mooers is prohibited. This provision shall not prevent the continued operation of the Clinton County landfill site on the North Star Road as may be permitted by the Department of Environmental Conservation.

Section 455: Keeping of Junk

No outside storage of junk, junk equipment, junk vehicles, junk mobile homes, rubbish, debris, or garbage as defined herein shall be located so as to be visible from any public road or from any adjoining property and under no circumstances shall it be less than one hundred (100) feet from property boundaries and roadways.

Section 456: Use of a Van or Enclosed Cargo Trailer for Storage

- A. Use on residential lots will be limited to use on a minimum lot size of 40,000 square feet and limited to no more than 360 square feet of van storage area.
- B. Setbacks: From road right of way: 100 feet; sides of lot 30 feet; rear of lot 15 feet.
- C. Must be kept in good visual and structural condition, or must be removed from the property within 30 days of receipt of written notice from the CEO.
- D. Any existing van or trailer used as a storage area at present and does not meet the requirements of this Law will have 1 year to come into compliance or be removed.
- E. Setbacks for business use shall be in compliance with the Zone Chart in which the business holds its permit to operate

Section 460: Keeping of Animals

Animals shall not be kept within one hundred (100) feet of a pre-existing neighboring residential structure, nor shall a building constructed to house such animals be placed within 100 feet of a pre-existing neighboring residential structure. The keeping of three (3) or less Dogs and three (3) or less Cats on one property is excluded from this regulation. The keeping of any number of other animals and four (4) or more dogs and/or cats applies to this section. This section shall not apply to active farms located within an Agricultural District established by the Clinton County Legislature pursuant to the NYS Agricultural and Markets Law. In addition the keeping of five (5) or more dogs requires a kennel license. (see Section 535 Page 37 Kennels)

Section 465: Fences and Hedges in the Entire Town of Mooers

This section shall apply to fences constructed of either solid, mesh or woven material and also includes hedges, trees, brush and shrubs that it might obstruct one's vision of any vehicle. That portion of such fence or hedge which is constructed forward of the minimum front building setback requirement of the appropriate zone in Section 360 or 361 shall be no higher than three and one-half (3.5) feet. In any event a fence, hedge, trees, brush or shrubs shall not block the view of a street from the front of a neighboring residence; On corner lots, the sides facing both streets shall be considered front yards. On the other sides, one shall be considered a rear yard and the other a side yard, at the owner's option, nor shall it create a traffic hazard. (Also see Local Law Number 1 of the year 2006, regulating parking upon or obstruction of public sidewalks)

Section 470: Airport/ Airstrip/ Heliport

Facility must be located no closer than two thousand (2,000) ft. from an existing property boundary.

Section 475: Odor Nuisance

No land use shall create an odor, which emits any discernible obnoxious and objectionable nuisance beyond the property line on which the use is conducted, nor shall any use discharge air contaminants, including but not limited to odor, which cause nuisance or annoyance to the public. This excludes the normal practices of farm operations, which are considered acceptable practices by the NYS Department of Agriculture and Markets.

Section 485: Outdoor Fuel Burning Heating Unit (i.e.: - Outdoor Water stoves)

Outdoor fuel burning and heating units must meet the following requirements:

- A. Must be located at least seventy five (75) feet or more from the property boundary.
- B. Has an attached permanent stack extending higher than the roof line (eaves) of the structure(s) being served by the outdoor fuel burning heating unit, or a minimum of fifteen (15) feet above surrounding ground elevation, whichever is higher.
- C. All units already in place at the time of this amendment must have a chimney installed of at least 15 feet above surrounding ground elevation within one year of the date of this amendment.
- D. Stockpiling of fuel sources such as, but not limited to, pallets, commercial debris, construction and demolition debris shall not create a visible eyesore having a negative aesthetic effect on the surrounding area. Refer to current DEC Law.

Section 490: Adult Use and Entertainment Establishments

Legislative Intent.

It is the purpose of this section to regulate the creation, opening, commencement and/or operation of Adult Use and Entertainment Establishments, as defined in this local law, in order to achieve the following:

- To preserve the character and quality of life in the Town of Mooers' neighborhoods and business areas
- To control such documented harmful and adverse secondary effects of Adult Uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.
- To restrict minor's access to adult uses.
- To maintain the general welfare and safety for the residents of the Town of Mooers.

Locations within the IND, COM and GEN zoning districts

An Adult Use and Entertainment Establishment shall be allowed only in the allowed zoning district set forth in this law, and within such district(s), shall not be allowed:

Within one thousand (1,000) feet of the boundary of any other zoning district besides GEN or IND, COM in the Town of Mooers;

Within one thousand (1,000) feet of the property line of a parcel used for residential purposes in the Town of Mooers;

Within one thousand (1,000) feet of the property line of a parcel containing or owned by a church or synagogue, other place of worship, library, school, day-care facility, park, or playground with the Town of Mooers.

On the same parcel as another Adult Use and Entertainment establishment; or;
Within one thousand (1,000) feet of the property line of another Adult Use and Entertainment Establishment, whether or not such other establishment is located in the Town of Mooers.

One (1) parking space per each employee plus one (1) parking space per three (3) seats or stools must be provided.

The Town of Mooers Zoning Board of Appeals will determine screening and landscaping requirements at the Special Permit Review of the application.

Adult Use and Entertainment Establishments shall conform to all existing applicable sign regulations, in addition to the following specific requirements:

Signs which are illuminated in neon or which contain flashing lights shall be prohibited
Exterior signs, displays or other advertisements, which contain nude, semi-nude, or provocative pictures, shall be prohibited.

Interior signs, displays, posters, or other advertisements, which contain nude, semi-nude, or provocative pictures, shall be located a minimum of 4 feet from any window or door, and shall not be visible from the exterior of the establishment.

ARTICLE 5
STANDARDS FOR SPECIAL USE PERMITS

Section 500: Approval of Special Use Permits

All uses allowed by Special Use Permit shall require review and approval by the Zoning Board of Appeals before a Zoning Permit may be issued. A Special Use is considered to be an allowable use in a district provided that sufficient conditions and safeguards are established to protect the health, safety and welfare of the public in general, and the residents of the surrounding area in particular. No Special Use Permit shall be approved unless the following general and specific standards are met.

Section 510: General Standards for All Special Permit Uses

- A. Impact Upon Surrounding Properties: The proposed use shall not cause a significant adverse impact upon nearby properties by reason of traffic, noise, fumes, odors, vibration, flashing lights, litter, surface water or groundwater contamination, air pollution, drainage, visual impact, excessive night time lighting, creation of a safety hazard, risk of fire or explosion, or other adverse condition; nor shall the proposed use significantly impair the future development of surrounding properties.
- B. Emergency Vehicle Access: All proposed buildings, structures, equipment and materials shall be readily accessible for fire and police protection.
- C. Sight Distance at Entry and Exit: To the extent practicable, intersections with and entries onto any public road shall be designed so that minimum safe sight distances and other standards set forth in “Policy and Standards for Entrances to State Highways”, State of New York Department of Transportation publication number M.A.P. 7.12-34, shall be maintained. As set forth in the above cited publication, the minimum unobstructed line of sight in each direction at the entrance to a public road shall be as follows:

<u>Design Speed of Highway</u>	<u>Left Turn</u>	<u>Right Turn</u>
30 MPH	396 feet	286 feet
40 MPH	583 feet	484 feet
50 MPH	814 feet	770 feet

Said distances shall be measured from the point of entry onto the public road. (Said distances represent the safe braking distance for traffic along the public road.)

- D. Drainage and Erosion Control: Adequate provision shall be made for drainage of the site, and to insure that storm water runoff does not create an adverse impact upon nearby lands or waterways. Appropriate erosion control measures shall be taken to prevent the pollution of waterways by silt and sediment.
- E. Lighting: Exterior lighting shall be directed so as to minimize the impact upon adjacent properties or onto public roads. High intensity lighting shall be minimized.

Section 515: Retail Gasoline Outlet

- A. Adequate space shall be provided for safe pull-off, parking, waiting lines and service, so as to prevent any interference with the roadway or shoulder. Gasoline pumps shall be located at least thirty (30) feet from the road right-of-way.
- B. Gasoline and/or fuel pumps, and fuel storage tanks, shall not be located closer than fifty (50) feet from side and rear lot lines, and shall be screened from view of neighboring properties.

Section 525: Commercial Excavations

- A. The mining and reclamation plan prepared for the Department of Environmental Conservation shall also be reviewed and found acceptable by the Zoning Board of Appeals prior to their approval.
- B. Such excavation or extraction shall not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic or other condition.
- C. Excavation activities shall be set back one hundred (100) feet from any public road and from any existing structure located on an adjacent property.
- D. Excavations which generate significant amounts of truck traffic, as defined by the DEC Mining Permit Process, shall not be located on roads which are unsuitable for truck traffic by virtue of their width, construction, or alignment; or on roads where truck traffic would pose an unacceptable safety hazard for children or pedestrians. Adequate road width for truck traffic is considered to be twenty (20) feet of driving surface.
- E. Applicants are required to notify all adjacent property owners of purpose and time and place of hearing and provide a signed acknowledgement of notification or provide proof of service of such notification by certified mail, return receipt requested or personal service. (see Section 1165, Page 66) If applicant is unable to obtain a signature, the Zoning Board will make one attempt.

Section 530: Trucking, Warehousing, and Industrial Uses

Trucking, warehousing and industrial uses which generate substantial amounts of truck traffic shall not be located on roads which are unsuitable for truck traffic by virtue of their width, construction, or alignment; or on roads where truck traffic would pose an unacceptable safety hazard for children, pedestrians or bicyclists. Minimum road pavement width for truck traffic is considered to be twenty (20) feet. Business may have the option of improving the road.

Section 535: Kennels

No indoor kennel facility shall be located closer than two hundred (200) feet from a pre-existing residential structure. No outdoor area to be used by animals housed in the kennel shall be located closer than five hundred (500) feet from a pre-existing residential structure. Other local laws may pertain to these facilities in addition to this law and are subject to change. Referral to these local laws should be considered at the time of a permit review. (See Section 460, Page 32 Keeping of Animals) Acreage must be owned or legally leased. Kennel permit is renewable annually.

Number of DOGS	5-10	any acreage	26-50	5 or more acres
	11-25	2 or more acres	51 or more	100 or more acres

Section 540: Mobile Home Park Standards

- A. Mobile home parks shall be divided and marked off into individual mobile home sites.
- B. All mobile homes shall be in compliance with standards equal to or more stringent than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976) and any amendments and revisions thereto. The certification labels of such compliance shall be attached to the mobile home as specified in HUD regulation.
- C. All mobile homes must be at least twelve (12) feet wide.
- D. Each mobile home shall be provided with skirting to screen the space between the mobile home and the ground. Skirting shall be of non-transparent durable material such as wood, stone, cement block, or vinyl and shall not consist of wire mesh, bales of hay, or transparent plastic. The appearance of skirting shall be in keeping with the character of a residential area. Such skirting shall be installed within ninety (90) days of occupancy.
- E. Each mobile home site shall be a minimum of seven thousand (7000) square feet in area, and shall be serviced by a park wide water or other approved system supply and a sewerage disposal system approved by the Clinton County Health Department and/or New York State Department of Environmental Conservation.
- F. If any lot is sold, as opposed to being either rented or leased, it must meet the minimum lot size and setback requirements for residential structures specified in Sections 350, 351, 360 and 361 herein.
- G. The minimum setbacks for each mobile home shall be:
 - 75 feet from any public highway (measured from the right-of-way line)
 - 30 feet from the centerline of any internal road
 - 30 feet from dwelling to dwelling
- H. Each mobile home site shall have at least fifty (50) feet of frontage on an internal road.
- I. No mobile home site shall have access directly onto a public road. All driveways shall enter onto internal roads.
- J. Each site shall contain at least two (2) spaces for off-road parking. Spaces shall be at least nine (9) feet by (20) twenty feet in size. Driveways are considered to be parking space.
- K. No mobile home site, parking lot, and recreation area or storage facility for fuels, supplies, or equipment shall be located within thirty (30) feet of external boundaries of the park.
- L. The Zoning Board of Appeals may require that vegetation be planted around the edge of the park in order to provide screening from public roads and neighboring properties.
- M. Internal roads shall:
 - Be privately owned and maintained,
 - Have a minimum thirty (30) feet right-of-way,
 - Be maintained and plowed such that they are passable by emergency vehicles at all times,
 - Be designed such that intersections with public roads are at right angles and that adequate line-of-sight distance is afforded in each direction when exiting from the park.

Section 545: Campgrounds, Travel Trailer Parks

- A. Minimum lot size: ten (10) acres
- B. Each campground/travel trailer park shall have adequate access to a public highway, and each camp/travel trailer site shall be serviced from interior roadways.
- C. The campground/travel trailer park shall be divided into campsites. The corners of each campsite shall be clearly marked, and each campsite shall be numbered for identification.
- D. There shall be a minimum fifty (50) feet green space buffer surrounding the campground/travel trailer park. No campsite or portion thereof, building, or structure shall be placed within the buffer area.
- E. No campsite shall be located within fifty (50) feet of any stream, brook, pond, or wetland.
- F. The Zoning Board of Appeals may require that the campground/travel trailer park be substantially screened from the view of public roads and neighboring properties.
- G. Each campground/travel trailer park shall comply with all applicable rules and regulations of the New York State Department of Health and the Clinton County Health Department.
- H. The owner or manager of a campground/travel trailer park shall maintain an office in the immediate vicinity of the park, and shall maintain accurate records of the names of park residents and their home addresses. These records shall be available to any law enforcement official or the code enforcement officer.

Section 550: Junk Salvage Yard

- A. The term Junk Salvage Yard is considered to be a business whose primary purpose is the recovery of parts for resale and reuse for the purpose of their original manufacture or a new use and that the recovery and/or recycling of the material left upon the completion of this portion of the operation is secondary to the operation of the business.
- B. The outdoor storage or disposal of product or material is not allowed within one-hundred (100) feet of any adjoining property line, within fifty (50) feet from the right-of-way of any public road, or within two-hundred (200) feet from any stream or brook.
- C. The outdoor storage area shall be completely surrounded by an eight (8) foot high fence constructed of wood or other approved material, and shall be equipped with a suitable gate that shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent is within. Said fence shall not be placed closer than one hundred (100) feet from any adjoining property line or fifty (50) feet from any public highway.
- D. When, in the judgment of the Zoning Board of Appeals, local terrain and vegetation adequately serve the purposes of preventing visibility from neighboring properties or public highways, and preventing the entry of children and other unauthorized persons into the junk salvage yard, said Board of Appeals may waive the requirement of the security fence, in whole or in part.

Section 555: Scrap Salvage Yard

- A. The term Scrap Salvage Yard is considered to be a business whose primary purpose is the recovery and/or recycling of the materials of composition and that the resale or reuse of the parts for the purpose of their original manufacture or a new use is secondary to the operation of the business.
- B. The outdoor storage or disposal of product or material is not allowed within one-hundred (100) feet of any adjoining property line, within fifty (50) feet from the right-of-way of any public road, or within two-hundred (200) feet from any stream or brook.
- C. The outdoor storage area shall be completely surrounded by an eight (8) foot high fence constructed of wood or other approved material, and shall be equipped with a suitable gate that shall be closed and locked except during the working hours of such scrap salvage yard or when the applicant or his agent is within. Said fence shall not be placed closer than one-hundred (100) feet from any adjoining property line or fifty (50) feet from any public highway.
- D. When, in the judgment of the Zoning Board of Appeals, local terrain and vegetation adequately serve the purposes of preventing visibility from neighboring properties or public highways, and preventing the entry of children and other unauthorized persons into the scrap salvage yard, said Board of Appeals may waive the requirement of the security fence, in whole or in part.

ARTICLE 6 NON-CONFORMING LOTS, USES, AND STRUCTURES

Section 600: Applicability

This section shall apply to those lots of record, land uses, and structures which legally existed at the time of enactment or amendment of this law, but which are not in compliance with the regulations or standards herein.

Section 610: Intent

The intent of this article is to provide for limited development upon existing undersized lots; and to allow non-conforming uses to continue, but not to encourage their expansion.

Section 620: Existing Undersized Lots of Record

- A. A single family dwelling may be constructed on any recorded lot in existence prior to adoption of the original version of these regulations on 12/10/97 without regard to the minimum lot area and minimum lot width requirements stated in Sections 360 and 361 of this law, provided that such lot does not adjoin any other lot or lots held by the same owner such that the owner might combine two or more lots in order to meet minimum requirements. Minimum front, side and rear building setback requirements shall apply, and any deviation from such minimums shall require a variance. All other requirements shall apply.
- B. Existing buildings located on undersized lots of record may be reconstructed to occupy the same ground area as the original structure.
- C. Existing buildings located upon undersized lots of record may be expanded without the issuance of a variance provided that minimum front, side, and rear building setbacks are met and that maximum lot coverage by building is not exceeded.
- D. For a change of use of an existing property, the establishment of a use other than a single family dwelling on undersized lots shall require a variance. An application for a permitted change of use or the cost renovations of 50% or more of assessed value to an existing property must include a land survey, engineer designers plan for the complete project, Clinton County Dept. of Health approved septic system for the proposed use, and a well.

Section 640: Non-Conforming Uses

Uses of land or structures that lawfully existed at the time these regulations were enacted, and which would be prohibited or restricted by these regulations, may be continued subject to the following conditions.

- A. Enlargement of buildings: Buildings containing a non-conforming use may be enlarged by an amount not to exceed one-third the size of the building without issuance of a variance by the Zoning Board of Appeals, provided that minimum building setbacks and maximum lot coverage requirements are met. If only a portion of a building contains a non-conforming use, then that square footage may be increased by one-third by using additional space within the structure, but not by constructing an addition to the structure.
- B. Expansion of area: The area of a lot occupied by a non-conforming use which does not involve a building, such as an automobile sales lot, equipment storage area, or parking lot, may not be expanded without the issuance of a variance by the Zoning Board of Appeals.

Exception: Existing junkyards may be expanded to any extent provided that such expansion obtains Special Use Approval by the Zoning Board of Appeals, and that all the requirements of Section 550 are complied with.

- C. Replacement of non-conforming single-wide mobile homes: An existing mobile home may be replaced with a larger or more recently manufactured mobile home provided that the provisions of Sections 415 and 420 of this law are complied with.
- D. Unsafe structures: Any structure or portion thereof declared unsafe by proper authority may be restored to a safe condition, or must be dismantled and disposed of within 180 days.
- E. Restoration: If a building is destroyed by fire, flood, or other act of God, then it may be rebuilt or restored to house the specific use that existed at the time of its destruction, but it shall not be rebuilt for any other non-conforming use. It may be enlarged by the amount permitted in “Part A” above.
- F. Discontinuance: Whenever a non-conforming use has been discontinued for a period of one year, the use shall not thereafter be re-established, and all future uses shall be in conformity with these regulations.
- G. Changes: Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
- H. Ownership: Any non-conforming use sold to another party may be continued, provided that such use is reestablished within one year of the sale as specified in Part F above.

ARTICLE 7 DEFINITIONS

Except where specifically defined herein all words used in this law shall carry their customary meaning. The Board of Appeals under their powers of interpretation shall clarify any doubt as to the precise meaning of a word.

Accessory Structure: A building or structure which is of secondary importance to the principal structure of the parcel and which is not used for human occupancy, including but not limited to garages and sheds, prefabricated sheds, shed kits and gazebo (regardless of foundation type/material). Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

Accessory Use: A use customarily incidental and subordinate to the principal use, and which is located on the same parcel with such principal use.

Adult Use: A public or private establishment or any part thereof, which presents any of the following entertainments exhibitions or services: Topless, and /or Bottomless dancers, strippers, topless waitressing, busing or service; topless hair care or massage, service or entertainment where servers or entertainers wear pasties, G-strings or both; adult arcade, adult bookstore or video stores; adult cabarets; adult motels; adult motion picture theaters, adult theaters; escort agencies, nude model studios and sexual encounters center, and any other similar business operated in a similar manner. The following definitions are included:

- A. Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe “specified sexual activities” or “specified anatomical areas”.
- B. Adult Bookstore: Any place to which as one of its principal business purposes offers the sale of publications (including books, magazines, and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”.
- C. Adult Cabaret/Club: Any nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes; persons who appear nude or semi-nude; or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities” or films, motion pictures, video cassettes, slides, or other photographic reproductions which depict “specified sexual activities” or “specified anatomical areas”.
- D. Adult Live Entertainment: Any performance of or involving the actual presence of real people, which exhibits “specified sexual activities” or “specified anatomical areas”.

Continued on next page

- E. Adult Live Entertainment Businesses: Any establishment of business wherein adult live entertainment is shown for observation by patrons.

DEFINITIONS

- F. Adult Motel or Hotel: Any motel, hotel, or similar commercial establishment that; offers accommodations to the public for any form of consideration; provides patrons with closed-circuit televisions transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe “specified sexual activities” or specified anatomical areas” as one of its principal business purposes; or offers a sleeping room for rent for a period of time that is less than ten (10) hours; or allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.
- G. Adult Motion Picture Theater: Any enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- H. Adult Video Store: Any commercial establishment which as one of its principal business purposes offers for sale or rent for any form of consideration any one or more of the following: video cassettes, video reproduction, photographs, films, motion pictures, slides, or other visual representations that depict or describe “specified sexual activities: or “specified anatomical areas” or instruments, devices or paraphernalia that are designed for use in connection with “specified sexual activities”.
- I. Escort Agency: Any person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration. An escort means a person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person, or, for consideration but without license granted by the State of New York, agrees or offers to provide a massage for another person.
- J. Nude Model Studio: Any place where a person who appears semi-nude, in a state of nudity, or who displays “specified anatomical areas” to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any other form of consideration.
- K. Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons are in a state of nudity or semi-nude.
- L. Specified Anatomical Areas: Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genital in a discernible rigid state even if completely and opaquely covered.
- M. Specified Sexual Activities: Human genitals in a state of sexual stimulation or arousal; or acts

of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic regions, buttocks or breasts.

*****End of Adult Use*****

DEFINITIONS

Agriculture: The raising of crops, animals or animal products, limited forestry, the selling of products grown on premises, and any other commonly accepted agricultural operations. Incidental mechanical processing and sale of products grown on the premises are included in the definition.

Applicator: Any person who applies Biosolids, Biosolid products, or other human waste derived products pursuant to appropriate permits.

Area Variance: The authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

Biosolids: Sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution in accordance with state law and regulations.

Board of Appeals: Town of Mooers Zoning Board of Appeals

Building: Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

Campground: Any parcel of land on which are located two or more cabins, tent sites, shelters, travel trailer sites or other accommodations of a design or character suitable for seasonal or other temporary living purposes.

Camp: To live in temporarily or occasionally for recreation, to include privately owned Recreational Vehicles including but not limited to travel trailer, fifth wheels and motor homes or structures less than six hundred (600) sq feet. To be a private recreational camp allowed by this law, the structure must not be used as a primary or secondary residence, and must be used only occasionally for a total of less than one hundred twenty (120) days per year, for a temporary shelter, in connection with any recreational activity. (see definition of travel trailer)
Not to include single and doublewide mobile homes.

1. For the purpose of this law a primary residence will not be considered a camp.
2. For the purpose of this law a secondary residence will not be considered a camp.

Change of Use: Changing a property from one use to another, whether in the whole property or partially.

DEFINITIONS

Clutter: See Rubbish.

Commercial Use: Any use involving the sale, rental, or distribution of goods or services, either retail or wholesale, such as stores, offices or the provision of recreational facilities for a fee; except that roadside produce stands operated on a seasonal basis and selling produce grown on the property shall not be considered to be a commercial use, and shall not be subject to the provisions governing commercial uses in this law.

Compost(ing): Material derived from the aerobic decomposition of recycled vegetative/animal waste, fish and/or other organic material.

Debris: See Rubbish

Disposal: A material is disposed if it is discharged, deposited, injected, dumped, spilled, leaked, burned, incinerated, or placed into any or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

Division: Any tract of land which is hereafter divided means the division of a lot, or parcel of land into two or more lots or other divisions of land. This definition includes division into two (2) or more parcels along an existing or proposed street, highway, easement, or right of way, regardless of whether the lots or parcels are described by metes and bounds or by other method of description. The portion of property retained by the owner, if any, shall constitute one (1) lot.

Doublewide: Two or more separately towable components at least thirty-two (32) feet designed to be joined into one integral unit capable of being again separated into the components for repeated towing. Must have a HUD Seal of Approval.

Dump: A place used for the disposal and leavening of solid or liquid waste by the public or by any person.

Dwelling: Building or part thereof used as living quarters. For purposes of this law, the terms dwelling unit, one family dwelling, two family dwelling and multi-family dwelling shall not include a motel, hotel, boarding house, or tourist home.

Dwelling Unit: Building or part hereof used as living quarters for one family, containing independent cooking and sleeping facilities.

Essential Services: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities which provide an essential use or service the public has a legal right to demand and receive.

Excavation: A lot or part thereof used for the purpose of extracting stone, sand, gravel, or minerals for sale, as a commercial operation.

DEFINITIONS

Family: One or more persons related to each other by blood, marriage or adoption, or not more than four individuals who are not related living together as a single housekeeping unit.

Forestry Use: Any management, including logging, of forest, woodland or plantation and related research and educational activities including the construction, alteration or maintenance of wood roads, skid ways, landings, fences and forest drainage systems.

Garbage: All putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged.

Gross Business Area: For the purpose of applying the requirements for off-road parking and loading, "gross business area" in the case of offices, merchandising or service types of uses, shall mean the total floor area to be used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patents, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, rest rooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

Hazardous Chemicals: Solid, liquid or gaseous substances which pose a potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed, including but not limited to hazardous substances designated by the U.S. Environmental Protection Agency under Section 311 of the Clean Water Act (40 CFR 116).

Hazardous Waste: A waste or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- A. cause or contribute to an increase in mortality or an increase in irreversible, or incapacitating reversible illness, or
- B. pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

Height of building: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the eaves and ridge for other types of roofs. Cupolas, steeples, chimneys and television antennas are excluded in height computations.

DEFINITIONS

Home Occupation: The term home occupation shall not include the following uses, which shall be considered commercial uses and shall be subject to the sections of this law governing commercial uses: garage or shop for the repair of motor vehicles, automobile body shop, commercial stable or kennel, musical or dancing instruction to groups exceeding four pupils, convalescent home, funeral home, trucking business requiring the parking of more than one truck, construction or excavating business requiring the outdoor parking of more than one piece of equipment.

It shall be prohibited to conduct a home occupation in a dwelling unit except as provided for in this law and of New York State Building Codes Section AJ102.5.1. A home occupation shall be conducted as provided below.

- A. The home occupation shall meet all requirements for habitable space and shall not exceed 15(%) percent of the floor area of the primary structure.
- B. No more than one person not residing in the dwelling unit may be employed in the home occupation.
- C. Inventory and supplies shall not occupy more than 50(%) percent of the area permitted to be used as a home occupation.
- D. The home occupation shall not involve any operation considered to be hazardous.
- E. Not to exceed more than 300 sq feet of an accessory structure in addition to primary structure.

Human Waste derived products: Any product or material that contains human waste. This includes but is not limited to materials containing or consisting of Biosolids, sewage sludge, and products developed through the N-Viro patented procedure.

Keeping of Junk: Old, dilapidated, worn out or discarded material of little or no value, scrap or abandoned metal, paper, building material and equipment, garbage, rubbish, debris, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, plastics, motor vehicles, and parts thereof.

A. **Junk Equipment:** Any equipment, which is:

- 1. either abandoned, wrecked, discarded, dismantled, or partly dismantled, and
- 2. is not in working order, and
- 3. has remained unused for more than six (6) months.

B. **Junk Vehicle:** Any motor vehicle whether automobile, bus, trailer truck, tractor, motor home, motorcycle, all-terrain vehicle, mini-bicycle, or snowmobile or any other device originally intended for travel on public highways which meets two or more of the following conditions:

- 1. it is unregistered with the New York State Division of Motor Vehicles or like department in other state,
- 2. it is either abandoned, wrecked, stored, discarded, dismantled or partly or wholly dismantled,
- 3. it is not any condition for legal use upon the public highway,
- 4. it is in such condition as to cost more to repair and place in operating condition than its reasonable market value at that time before such repair.

DEFINITIONS

C. Junk Mobile Home: Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living or sleeping purposes, including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and overnight trailers. To qualify as a junk mobile home, the dwelling must meet two of the three following conditions for six months or more:

- The electrical service is disconnected or terminated.
- It is abandoned as a dwelling unit.
- It is no longer habitable for residential occupancy.

D. The outdoor storage or deposit of any of the following:

1. Five (5) or more junk vehicles.
2. Two (2) or more abandoned mobile homes or travel trailers.
3. Five (5) or more appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
4. Five (5) or more pieces of junk farm equipment or construction equipment, except farm equipment stored on an active farm.
5. Five (5) or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
6. Any combination of the above that totals five (5) items.

Kennel: An establishment, in which more than five (5) dogs more than six (6) months old are housed, groomed, bred, boarded, trained or sold. (see Section 460, Page 32 and Section 535, Page 37)

Land application: The spreading, placement or distribution of Biosolids upon, or insertion into, the land.

Light Industrial Use: Any manufacturing or assembly facility, which does not include:

- A. the manufacture of hazardous chemicals,
- B. the use of petroleum based products except as incidental to the main industrial use,
- C. the outdoor storage of scrap metal or junk,
- D. the creation of solid, liquid, or airborne hazardous wastes,
- E. the creation of significant smoke or airborne particulate matter, or
- F. the creation of noise, which would have an adverse impact upon neighboring properties.

Litter: See Rubbish

Lot: Any parcel of land which individually or as part of a subdivision of land has been recorded in the county clerk's office.

Lot Frontage: The portion of the lot abutting upon a street or road.

Lot Line: Property line bounding a lot.

DEFINITIONS

Lot Width: The horizontal distance between the side lot lines measured at right angles to the depth, measured at a depth equal to the greater distance of:

- A. the minimum required front yard setback or
- B. the distance from the public road to the nearest side of the building.

Membership Club: Any organizations catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for economic gain. The term club shall include lodges, fraternal organizations, mutual benefits societies, and other like organizations. A hunting lodge shall not be considered a club.

Mining: Any blasting, fracturing or cutting involved in the extraction of materials in any type of mining or quarrying operation, except if required for the purpose of installation of a foundation or utilities for a building or structure.

Minor Residential Street: A loop street, short dead-end or cul-de-sac, or other street within a residential subdivision, which is neither intended nor designed to serve through traffic. Such streets are commonly constructed by developers to serve a specific residential subdivision. All dead-end roads, public or private, which are less than one-quarter of a mile long are deemed to be minor residential streets.

Mobile Home Park: Any lot of record upon which two (2) or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home: A prefabricated dwelling unit delivered to the site in two (2) or more structural units and permanently assembled is considered a single family residence for the purpose of this local law.

Motor Vehicle Repair Shop: A building, or portion thereof, arranged, intended or designed to be used for making repairs to motor vehicles, including auto body shops.

Multi-Family Dwelling: A building designed for, or occupied by, three (3) or more families living independently of one another, to include row type attached or semi-attached dwellings which share a common wall or portion thereof.

Neighboring Residential Property: Any adjoining lot five (5) acres or less in size used primarily for residential purposes.

DEFINITIONS

Nightclub: Any drinking establishment which includes an area where patrons may dance, or which provides live entertainment.

Non-Conforming Lot: Any legally created lot of record which existed on the effective date of this law and which does not conform to the minimum requirements of this law.

Non-Conforming Use: A use of land existing at the time of enactment of this law which is neither a permitted use nor allowed by special use permit in the zone where it is located.

Nuisance: Shall mean the unreasonable interference with a person's comfortable use and enjoyment of property. This includes, but is not limited to, whatever is injurious to health, indecent or unreasonably offensive to the senses or an obstruction to the free use of property, to essentially unreasonably interfere with the comfortable enjoyment of life or property.

Off-premise Sign:

A sign not located on the same property as the establishment displayed on it.

Outdoor Fuel Burning Heating Unit: Any individual or multiple-unit hand-fed or mechanical-fed stove (i.e.: Outdoor Water stoves) designed to burn wood, coal or other hand-fed or mechanical-fed fuel for the purpose of heating water or air where the stove is located outside the structure into which the hot water or air produced thereby is piped. Exclusions to this shall be limited to electric, corn, propane and natural gas units.

Outdoor Storage: The placing, maintaining or keeping of junk, rubbish, clutter, litter, or debris in a place other than a structure with a roof and fully enclosed on all sides.

Outdoor Recreation: Any recreation use particularly oriented to and utilizing the outdoor character of an area, including horseback riding stables, playgrounds, picnic areas, beaches or similar uses.

Owner: A person who holds legal title, equitable title, a leasehold interest or the right of possession or control over land.

Permit: An authorization granted by the local government.

Person: Includes an individual, firm, partnership, corporation, municipality, or association of individuals.

Personal Service: Includes barber, hairdresser, beauty parlor, shoe repair, photographic studio, and businesses involving the care of a person or his or her apparel.

Pool/Swimming Pool: Any structure intended for swimming, recreational bathing or wading.

DEFINITIONS

Principal Structure: The structure in which is conducted the principal use of the lot on which it is located.

Professional or Business Office: Offices and related spaces for use as professional services as provided by medical practitioners, attorneys, architects, surveyors, engineers, accountants, and similar professions.

Public and Semi-Public Buildings and Grounds: Includes but is not limited to:

- A. Churches, places of worship, parish houses and convents,
- B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority,
- C. Nursery schools, elementary schools, high schools, colleges or universities,
- D. Golf courses and country clubs, however, not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft,
- E. Public libraries and museums,
- F. Not-for-profit fire, ambulance and public safety buildings,
- G. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York,
- H. Not-for-profit membership corporation established for cultural, social, or recreational purposes,
- I. Day-care centers approved by the New York State Department of Social Welfare.

Residential Property:

1. For the purpose of this law a primary residence is defined as:
The residence where you have your permanent home and to where, whenever you are absent, you intend to return; every person is compelled to have one (1) and only one domicile at a time.
2. A home other than your primary residence.

Residential Property Line: Lot line of a parcel of land five acres or less in size containing a residential use.

Restaurant: An establishment at which food is served to patrons on the premises, which may include the serving of alcoholic beverages provided that the serving of drinks is clearly secondary and accessory to the serving of food.

Retail Gasoline Outlet: Any establishment which sells gasoline to the public, to include service stations, convenience stores, car washes and any other facility which sells gasoline.

DEFINITIONS

Road Line: Right of way line of a road as dedicated by a deed or record. Where the width of a road is not established, the road line shall be considered to be twenty-five (25) feet from the centerline of the road pavement.

Roadside Produce Stand: Any stand operated on a seasonal basis and selling produce grown on the property. Stands operated on a year-round basis or which primarily sell produce not grown on the property shall be considered a commercial use, and shall be subject to all the requirements for commercial uses stated in this law.

Rubbish, Clutter, Litter, and Debris: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, cigarettes, tires, lumber, brick, stone and other building materials no longer intended or in condition for ordinary and customary use.

Sewage sludge: Any solid, semi-solid, or liquid residues, which contain materials, removed from municipal or domestic wastewater during treatment including primary and secondary residues.

Sewage / Biosolids Storage Facility: any permitted facility which stockpiles Biosolids, sewage sludge, or human waste derived products for a period of time greater than one week, and in a quantity greater than twenty cubic yards of said material. Such facilities include, but are not limited to above ground and underground storage tanks, trucks, silos, ponds, lagoons, stockpiles, and other holding devices.

Shopping Center: Facilities providing space for two or more retail sales or service establishments in excess of fifteen thousand (15,000) square feet gross business area.

Side Building Setback: The space on the side of a lot not occupied by a building, measured from the nearest side of a building to a side lot line and extending the full length of the lot.

Sign: Any material, structure or object, or part thereof, composed of lettered or pictorial matter which is located out-of-doors or on the exterior of a building, which is used for the purpose of bringing the subject matter thereof to the attention of others, but excluding any flag, emblem or insignia of a nation, political unit, school or religious group. Christmas lights or other holiday ornamentation shall not be considered to be signs.

Single Family Dwelling: Detached building designed for or occupied by one family, not to include singlewide mobile homes.

Single Wide Manufactured Housing: A moveable or portable unit at least fifty (50) feet in length which is designated and constructed to be towed on its own chassis, comprised of frame and wheels, and designed to be used as a dwelling unit when connected to required utilities. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity. Must have a HUD Seal of Approval.

DEFINITIONS

Solid or Liquid Waste: All putrescible and non-putrescible solid wastes including garbage, rubbish, human sewage, ashes (not including wood or coal ashes from private heating units), incinerator residue, street and building demolition and construction debris, metals, abandoned vehicles (not including duly licensed auto repair establishments or duly licensed junk yards), all commercial, medical, or industrial waste, and hazardous and toxic wastes as defined by the N.Y.S. Department of Environmental Conservation or the federal Environmental Protection Agency. (Also see: Waste Terms - “solid” or “liquid” “waste” or “product:)

Special Use Permit: An authorization of a particular land use, which is permitted in this law subject to conditions, which are designed to insure that the proposed use will not adversely affect the neighborhood if such conditions are met.

Stockpile: Any concentration of Biosolids, Biosolid products, sewage sludge, or other human waste derived product that consists of more than twenty cubic yards of said material, and which has not been land applied at an application rate that is in accordance with these regulations. This definition includes any concentration that may be replenished and drawn from in such a way that over twenty cubic yards of said material is present on the property for longer than one week, or is replenished in a stockpile on said property within one weeks' time.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including garages, swimming pools and outbuildings.

Tavern: An establishment used primarily for the serving of alcoholic beverages to the general public where food may be served as an accessory to the primary use.

Temporary Sign: Any for sale or for rent sign, political sign, or any sign announcing an event, which is permitted for a period not exceeding thirty (30) days prior to the activity or event and not exceeding four (4) days after the activity or event.

Temporary Yard, Porch, or Garage Sale: A yard, porch or garage sale, which is held no more than thirty (30) days per year.

Travel Trailer/RV: Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes, but not including tent campers or truck campers. A motor vehicle or trailer meeting the above definition but which is longer than thirty eight (38) feet in length shall be considered to be a mobile home. (See definition of mobile home.)

Travel Trailer Park: Any plot of ground upon which two (2) or more trailers, pickup coaches or similar recreational vehicles thirty eight (38) feet in length or shorter, and/or tents occupied for dwelling or sleeping purposes for transients are located.

Two Family Dwelling: Building designed for, or occupied by, two families living independently of one another. Singlewide and Doublewide Manufactured Housing are not allowed for this use.

DEFINITIONS

Use Variance: The authorization by the Zoning Board of Appeals for the use of land for a purpose, which is otherwise not allowed or is prohibited by the applicable zoning regulations.

Van Body or Enclosed Trailer: Any enclosed cargo body separated from the cab and chassis, which made it mobile, to be used for a purpose other than the original intent of the manufacturer, typically as a storage area. Including but not limited to shipping containers, enclosed cargo trailer, and semi-trailer.

Variance: Any departure from the strict letter of this local law granted by the Zoning Board of Appeals as it applies to a particular property.

Warehousing and Distribution: Terminal facilities for handling freight with or without maintenance facilities, and buildings used primarily for the storage of goods and materials.

Waste Disposal: The disposal of solid or liquid waste. (See definition of solid or liquid waste, and disposal.)

Waste Terms - "solid" or "liquid" "waste" or "product": Means all putrescible and non-putrescible solid

wastes or products including, but not limited to, garbage, rubbish, human sewage, ashes (not including wood or coal ashes from private heating units), incinerator residue, street and building demolition and construction debris, metals, abandoned vehicles (not including duly licensed auto repair establishments or duly licensed junk yards), all commercial, medical, or industrial waste, hazardous, toxic wastes as defined by the D.E.C. and the E.P.A. and manufactured /natural Biosolids.

Zoning Board of Appeals: Town of Mooers Zoning Board of Appeals

Zoning Enforcement Officer: The official designated to administer and enforce this law and have the authority and duty to act upon violations with or with a lodged verbal or written complaint.

Zoning Permit: A document issued by the Zoning Officer authorizing the use of lots or structures in conformity with this law.

ARTICLE 8
SPECIAL USE APPROVAL

Section 800: Applicability

All uses listed as Special Uses in Article 3 shall require review and approval by the Zoning Board of Appeals before a Zoning Permit may be issued by the Enforcement Officer.

Section 810: Authorization

The Zoning Board of Appeals of the Town of Mooers is hereby authorized to review and approve, approve with modifications, or disapprove proposed Special Uses in accordance with the standards set forth in Article 5 herein.

Section 815: Site Plan Approval

As part of their review and approval of a Special Use, the Zoning Board of Appeals shall review and approve a site plan for the proposed use. The applicant shall be present for the application to be reviewed.

Section 820: Application for Special Use Approval

All applications for Special Use Approval shall consist of the following:

- A. Three (3) copies of a site plan map (one to be retained for Town records, one to be returned to the applicant, one for referral to county if necessary), drawn to scale, to include as applicable:
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 2. North arrow, scale and date;
 3. Boundaries of the property plotted to scale;
 4. Existing watercourses and bodies of water;
 5. Location of any slopes of 5% or greater;
 6. Proposed grading and drainage;
 7. Location, proposed use and height of all buildings and site improvements including culverts, drains, retaining walls, and fences;
 8. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site;
 9. Location of outdoor storage, if any;
 10. Description of the method of sewage disposal and location of the facilities;
 11. Identification of water sources; if a well is present and intended for use, locate;
 12. Location, size and design and construction materials of all proposed signs;
 13. Location and proposed development of all buffer areas;
 14. Location and design of outdoor lighting facilities;

The Zoning Board of Appeals may, at its discretion, require that a licensed engineer or architect prepare such site plan.

- B. Accompanying data, to include the following as applicable:
1. Application form and fee.
 2. Name and address of applicant and any professional advisors.
 3. Authorization of owner if applicant is not the owner of the property in question.
 4. Short Environmental Assessment Form.
 5. Any additional endorsements, certifications or approvals required by the Zoning Board of Appeals.
 6. Other information as the Zoning Board of Appeals may reasonably require assessing the proposed project.

Section 830: Waiver of Submission Requirements

The Zoning Board of Appeals may waive certain submission requirements in the case of minor projects of an uncomplicated nature.

Section 840: Review Procedure

The Zoning Board of Appeals shall review the application in accordance with the procedures specified in Article 10 herein, and shall render a decision to approve, disapprove or approve with modifications.

Section 850: Conditions

In their review of a proposed Special Use the Zoning Board of Appeals may impose any conditions it deems necessary to serve the interests of the public health, safety and general welfare, and to improve compatibility with surrounding properties. Such conditions may include, but shall not be limited to:

1. Requiring landscaping, vegetative screening, or fencing.
2. Increasing building setback.
3. Limiting the size of buildings, parking areas or facilities.
4. Specifying the location and design of entrances, exits, and off-street parking space.
5. Requiring that materials be stored indoors or certain activities shall be conducted indoors.
6. Requiring noise barriers.
7. Requiring storm water retention ponds or other drainage and pollution control devices.

ARTICLE 9 VARIANCES AND APPEALS

Section 900: Board of Appeals

The Zoning Board of Appeals (ZBA) shall have the authority to review and approve requests for variances, to hear appeals from a decision of the Zoning Enforcement Officer, and to decide any question involving the interpretation of a provision or definition contained in this law.

Section 910: Application

- A. A property owner(s) or his/her agent(s) may initiate a request for a variance by filing an application with the Zoning Board of Appeals using forms supplied by the Board. Any permit requiring a variance meeting must be attended by the applicant or their authorized representative.
- B. The applicant shall include a copy of the tax map, which shows the property and neighboring uses of property; and a map drawn to scale showing all existing and proposed structures, driveways, water and sewer systems, property lines, and natural features of the site including wetlands and drainage ways.

Section 920: “Area” versus “Use” Variance

The granting of variances shall be principally for those seeking an “area” variance. A “use” variance shall only be granted if the provisions of Section 940 Part B of this law are strictly met.

Section 930: Requirements for Area Variances

- A. Area variances may be granted where the dimensional or physical requirements of this law cannot be reasonably met, including but not limited to: minimum lot size, minimum lot width, minimum road frontage, minimum side and rear yards, minimum green space buffer, maximum lot coverage by buildings, maximum height of buildings, size or height of signs, and screening requirements.
- B. In making its determination the ZBA shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community. In making such determination the board shall also consider:
 - 1. Whether an undesirable change in the character of the neighborhood will be produced or the granting of the area variance will create a detriment to nearby properties.
 - 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - 3. Whether the requested variance is substantial.
 - 4. Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood.
 - 5. Whether all alleged difficulty was self-created, which consideration shall be relevant to the

Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(Town Law Section 267-b if modified or amended by the State will govern our variance test requirements).

Any area variance granted shall be the minimum necessary for the applicant to make reasonable use of the property.

Section 940: Requirements for Use Variances

- A. The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.
- B. No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restriction have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located.
 - 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - 2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
 - 3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - 4. That the alleged hardship has not been self-created.
- C. The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(Town Law Section 267-b, if modified or amended by the State, will govern the use variance test requirements).

SECTION 950: Approval of Variances with Conditions

The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

SECTION 960: Time of Appeal

Any appeal from a decision of the Zoning Enforcement Officer shall be made within sixty (60) days after the Zoning Enforcement Officer files said decision.

SECTION 970: Stay Upon Appeal

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certifies to the Board of Appeals that by reason in the facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings may not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record.

ARTICLE 10
ZONING BOARD OF APPEALS REVIEW PROCEDURES

Section 1000: Applicability

This article shall apply to the review procedure for special uses, variances, and appeals from a decision of the Zoning Enforcement Officer.

Section 1010: Review Steps, Board of Appeal Procedure

Procedures will be governed by Town Law 267-a.

Section 1015: Review Procedure for Applications

For applications of an uncomplicated nature the review procedure may be modified as follows, provided that the time frame requirements of Section 1010 are complied with:

- A. Upon receipt of an application, a public hearing on the matter may be scheduled just prior to, and on the same date as, the regular monthly meeting of the ZBA. A copy of the application shall be forwarded to the Clinton Country Planning Board if required by Section 1160 herein.
- B. At their regularly scheduled meeting, and after the public hearing, the Zoning Board of Appeals shall:
 - 1. Make a decision on the matter, or
 - 2. postpone their decision until a later date, provided that a final decision is made within forty five (45) days of the public hearing.

Section 1020: Meeting Procedures

- A. Meeting shall be held at a time and date that the ZBA may determine, or at the call of the Chairperson.
- B. The Zoning Board of Appeals shall consist of five (5) members. In addition, there are two (2) alternates to the board. The alternates will be able to participate in the discussion. Only the first alternate will be able to cast a vote if a member is absent or abstains from voting on an issue.
- C. The Board shall keep minutes of its proceedings showing the vote of each member upon each question.
- D. All meetings and hearing of the Board shall be public.
- E. Every decision or determination of the Board of Appeals shall be in writing, and shall be filed in the office of the Town Clerk within five (5) business days and shall be public record.

ARTICLE 11 ADMINISTRATION AND ENFORCEMENT

Section 1100: Zoning Permits

- A. Except for exempt actions listed in Section 110 parts B and C of this law, no building or structure shall be erected, altered, moved, or use instituted, until a Zoning Permit has been issued.
- B. An application must be complete to be accepted. Applications for change of use must include project plans for the entire property listed and comply with the requirements of Section 620, if applicable.
- C. When establishing measurements to meet required setbacks, measurements shall be taken from the right-of-way or lot line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, and attached garages.
- D. A Zoning Permit issued under this law shall expire one (1) year from the date of issue. The CEO may issue a one (1) year extension additional and the ZBA may authorize another year additional after these three (3) years a new application must be completed.
- E. Any use that has been discontinued for a period of twelve (12) months or longer shall be considered abandoned and may not be re-instituted without applying for a new Zoning Permit.
- F. Applications for Zoning Permits shall be submitted to the Code Enforcement Officer or Town Clerk and shall include three (3) copies (unless waived by the CEO) of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the distance from the building line to all lot lines, road lines, waterfront property lines, and streams; and such other information as may be necessary for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the Town Clerk or Code Enforcement Officer.
- G. Permit fees and other use charges shall be established by resolution of the Town Board.
- H. The Zoning Enforcement Officer, upon approval by the Board of Appeals, may issue a Temporary Permit for a period not exceeding one (1) year. Temporary permits will be based upon conditions agreed to by the owner or operator to remove any nonconforming structures or equipment upon expiration of the temporary permit or to bring the use into compliance before the expiration period of the permit. Such permits may be renewed for one additional year upon approval from the ZBA not to exceed a total of two (2) years.
- I. A Zoning Permit will not be issued until a tax map Identification Number is received by the Town of Mooers.

Section 1110: Certificate of Occupancy

No land shall be occupied or used and no building or structure hereafter used, or changes made in the use until a Certificate of Occupancy has been issued by the Code Enforcement Officer

stating that the building, structure, or proposed use thereof complies with the provisions of this law.

Section 1120: Code Enforcement Officer (CEO)

- A. The Code Enforcement Officer, who shall be appointed by the Town Board, will be the person responsible with the enforcement of the requirements of this zoning law.
- B. The duties of the Code Enforcement Officer shall be to:
 - 1. Approve and/or deny zoning permits.
 - 2. Scale and interpret zone boundaries on the Zoning Map.
 - 3. Approve and/or deny Certificates of Occupancy.
 - 4. Refer appropriate matters to the Zoning Board.
 - 5. Revoke zoning permits where there is false, misleading or insufficient information.
 - 6. Revoke zoning permits and/or certificates of occupancy where the applicant has varied from the terms of the application.
 - 7. Investigate violations with or without a lodged written or verbal complaint by a municipal officer or local resident, issue stop work orders, and refer violations to the Town Board.
 - 8. Report at regular Town Board meetings the number of zoning permits and certificates of occupancy issued and fees collected.
- C. Complaints of Non-Compliance:

Any person may file a complaint with the CEO that a violation of this law may have or is taking place. The CEO shall properly record and investigate any such complaint. The CEO may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

Section 1130: Zoning Board of Appeals

- A. Creation: A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members and two (2) alternates. One (1) alternate shall have authority to vote when a member is absent. The second alternate shall have authority to vote only if required for a quorum. The Town Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Town Law, and shall appoint a Chairman and Vice-Chairman. The Board of Appeals shall select a Secretary and may prescribe rules for the conduct of its affairs.
- B. Powers and Duties: The Zoning Board of Appeals shall have the following powers and duties with respect to this law:
 - 1. Review and approval of Special Use Permits.
 - 2. Review and approval of Variances.
 - 3. Review of appeals from a decision of the Zoning Enforcement Officer.
 - 4. To decide any question involving the interpretation of a provision or definition contained in this law.
 - 5. Submittal of advisory opinion to the Town Board for any proposed amendment to this law.

Section 1140: Enforcement

- A. **Penalties:** Any person owning, controlling or managing any such building, structure or land whereon there is a violation of any of the provisions of this law shall be guilty of an offense and subject to a fine or penalty of not more than two hundred fifty dollars (\$250.00) and/or fifteen (15) days in jail, for each such violation. For each 24-hour period such violation continues, every such person shall be deemed guilty of a separate offense. Where the person committing such violation is a partnership, association, corporation, or limited liability company, the principal executive officer, partner, agency, manager or member may be considered to be the "person" for the purpose of this section. The Town Board shall also have the power to bring civil action to restrain any violation of this local law in a court of competent jurisdiction.
- B. **Alternative Remedy:** In the case of any violation or threatened violation of any of the provisions of this law, or conditions imposed by a zoning permit, in addition to other remedies herein provided, the Town may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct, or to abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises and to collect and/or impose any penalty or fine assessed hereunder.
- C. **Stop Work Order:**
1. The Town Board for the Town of Mooers herein grants the Zoning Enforcement Officer the administrative responsibility of determining in the first instance whether a violation has occurred and immediately terminating said violation by posting a Stop Work Order on the premises wherein the violation has occurred.
 2. The Stop Work Order shall serve notice to the owner, builder, developer, agent and/or any other individual or business on the premises that all such actions specified on the Stop Work Order must be terminated immediately.
- D. **Appeal:** Any person found to be in violation as described above may appeal the notice of violation to the Zoning Board of Appeals. Such appeal must be in writing and may be made no later than sixty (60) days from the date of the notice. An Appeal to the Zoning Board of Appeals shall stay enforcement including the accumulation of fines and penalties from the date such appeal is filed in the office of the Zoning Board of Appeals to the date of a determination by the Zoning Board of Appeals.
- E. **Misrepresentation:** Any permit or approval granted under this law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstances known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town under Section 1140 A-C of this law.

Section 1150: Amendments

All prior ordinances, local laws, or resolutions or parts of ordinances, local laws, or resolutions of the Town of Mooers inconsistent with the provisions of this local law are hereby repealed provided, however, that such repeal shall be only to the extent of such inconsistency, and in all respects this local law shall be in addition to other legislation regulating and governing the subject matter covered by this local law.

- A. The Town Board may amend, supplement, or repeal the regulations and provisions of this law after public notice and public hearing. Certain amendments require referral to the Clinton County Planning Board as described in Section 1160 below. The Town Board, by resolution, shall fix the time and place of public hearing on the proposed amendment and shall cause notice to be given as follows:
 - 1. By publishing a notice at least ten (10) days in advance in the official newspaper of the Town.
 - 2. By referring the proposed amendments to each town and village and within five hundred (500) feet of the Town of Mooers boundaries, and to any state park commission whose property lies within the Town or within five hundred (500) feet of its boundaries.

- B. In case of a protest against such amendment signed by the owners of twenty (20) percent or more of the area of land included in such amendment, or in the case of disapproval by the County Planning Board, the Town Board must have a vote of majority plus one in favor in order to adopt the amendment.

Section 1160: Referral to the County Planning Board

- A. State law requires that certain variances, Special Use Permit approvals, or zoning amendment actions be referred to the Clinton County Planning Board for their review prior to taking final action on the matter. Such actions are those, which affect real property within five hundred (500) feet of any of the following:
1. A State or County highway,
 2. State or County lands where a public building or institution is located,
 3. A State or County owned park or recreation area,
 4. The Town boundary,
 5. Farm operation within an agricultural district.
- B. If the County Planning Board does not respond within thirty (30) days from the time it receives a complete application, final action may be taken on the matter without such report. The term "receives" as used in this Section shall mean delivery at least one week in advance of the regularly scheduled County Planning Board meeting.
- C. In the event the County Planning Board disapproves the proposal, or approves it subject to modifications, then the local board may override the county opinion only by a vote of a majority plus one of its members.
- D. The local board shall send a copy of its final decision to the County Planning Board within seven (7) days after the local decision is reached. If the decision of the local board is contrary to a County Planning Board recommendation, then the local board shall send a resolution fully stating the reasons for its contrary action.

Section 1165: Notification

Applicants are required to notify all adjacent property owners and provide a signed acknowledgement of or provide proof of service of such notification by Certified Mail return receipt requested or by personal service, for any action listed under INDUSTRIAL, WAREHOUSING AND TRUCKING USES or WASTE DISPOSAL sections of this document or any other action requiring notification of adjacent property owners of purpose and time and place of hearing. If applicant is unable to obtain a signature, the Zoning Board will make one attempt. This section is not intended to diminish the responsibilities of the TOWN to comply with NYS regulations.

Section 1170: Severability

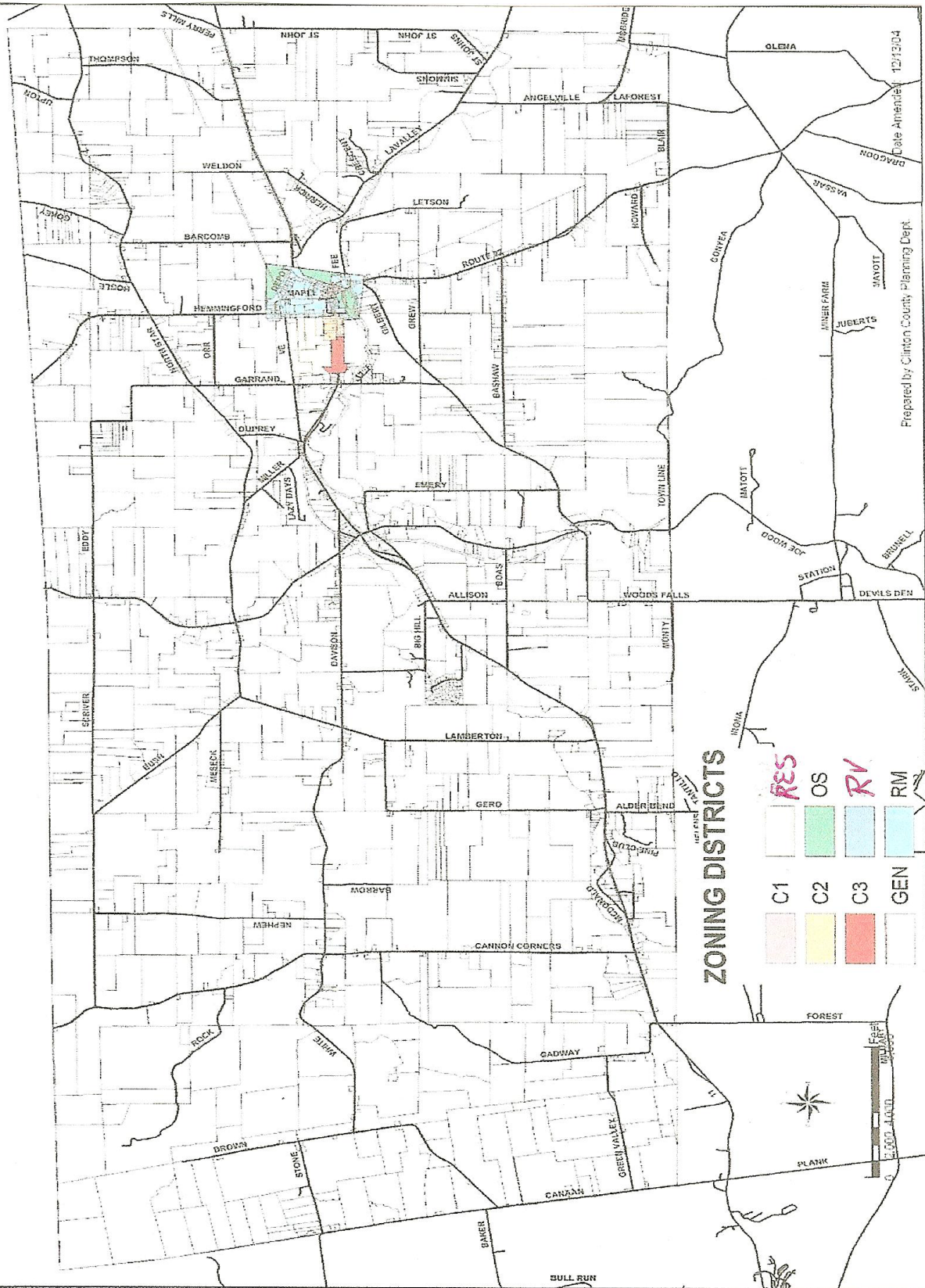
Should any section or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 1180: Effective Date

The provisions of this law shall take effect upon filing with the Secretary of State.

THIS PAGE LEFT BLANK

TOWN OF MOOERS ZONING MAP



Prepared by Clinton County Planning Dept.
Date Amended: 12/13/04