

# **Town Of Minerva**

## **Rural Zoning Law**

May 2005

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## **ARTICLE 1 GENERAL PROVISIONS**

### **Section 100 Title**

The title of this law is the "Town of Minerva Rural Zoning Law," and shall include this text and the official zoning map.

### **Section 105 Purposes**

The overall purpose of this law is to promote the health, safety, and general welfare by regulating the density of population; and the location, intensity and use of buildings, structures and land; for trade, residence, recreation or other purposes. Further purposes of this law are to implement the goals of the Town of Minerva Comprehensive Plan of 2004 and any amendments thereto.

### **Section 110 Prior Existing Law**

This law shall replace and supercede the prior existing "Town of Minerva Site Plan and Land Division Review Law."

### **Section 115 Conflict with other Laws**

Whenever the requirements of this law are at variance with the requirements of any lawfully adopted rules, regulations, law or statutes, the most restrictive or those imposing the higher standard shall govern.

### **Section 120 Severability**

Should any section of or provision of this law be decided by court of competent jurisdiction 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.

## **ARTICLE 2 PERMITS AND PROCEDURES**

### **Section 200 Regulated Activities**

- A. No person shall undertake any of the following unless a Zoning Permit has been issued by the Enforcement Officer.
  - 1. Construction of any new building or structure one hundred and forty (140) square feet or larger in ground coverage, except swimming pools.
  - 2. Expansion or enlargement of any existing structure, if the completed structure is one hundred and forty (140) square feet or greater in ground area.
  - 3. Placement of a mobile home, or the replacement of an existing mobile home with another mobile home.
  - 4. Change in the use of a building or of land.
  - 5. Construction or enlargement of parking lots for non-residential uses.
  - 6. Any sign larger than four (4) square feet in area, and any luminous sign of any size.
- B. The following activities do not require the issuance of a Zoning Permit, but must meet the building setbacks and other requirements of this law.

1. Buildings or structures equal to or greater than eighty (80) square feet in ground area and less than one hundred and forty (140) square feet in ground area.
  2. Expansion or enlargement of any structure equal to or greater than eighty (80) square feet in ground area and less than one hundred and forty (140) square feet in ground area.
  3. Any swimming pool as defined herein.
- C. The following activities are not regulated by this law and do not require a Zoning Permit.
1. Buildings or structures less than eighty (80) square feet in ground area.
  2. Expansion or enlargement of any structure that results in a finished structure less than eighty (80) square feet in ground area.
  3. Interior structural alterations, or routine maintenance and improvement which does not expand the exterior dimensions of a structure.
  4. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this law.
  5. Non-structural horticultural or gardening uses.
  6. The erection of chimneys, posts and other similar structures.
  7. Temporary yard sales, porch sales, garage sales and sales of a similar nature which are held fewer than 30 days per year.
  8. Non-luminous signs four (4) square feet or less in area.
  9. Timber harvesting.
  10. A portable sawmill in use on any one property less than 31 days within any consecutive 12 month period.

## **Section 205 Zoning Permit Types**

Under the terms of this Law, the following classes of Zoning Permits may be issued.

- A. Permitted Use. A Zoning Permit for a permitted use shall be approved by the Enforcement Officer on his own authority. (Permitted uses are shown with an “p” on Schedule A of this Law.)
- B. Permitted after Site Plan Approval. Uses designated by the letter “S” on Schedule A herein require Site Plan Approval by the Planning Board before a Zoning Permit may be issued.
- C. Permitted after a decision by the Board of Appeals. A Zoning Permit shall be issued by the Enforcement Officer after issuance of a variance by the Board of Appeals or as a result of a ruling on an appeal heard by the Board of Appeals. (See Article 8 herein.)

## **Section 210 Required Information for Application**

Application shall be made on designated forms. All information requested on the application form must be supplied. In addition, the following is required in order to constitute a complete application:

- A. Map. Two (2) copies of a property map, drawn to scale, shall be submitted with all applications. The map shall be either a sketch map or a site plan map:
  1. Sketch Map. A sketch map is required with all applications for one or two family dwellings and their customary accessory uses. Such map shall show the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway location,

natural watercourses, ponds, surface drainage patterns and location of existing or proposed easements.

2. Site Plan Map. A site plan map is required for all uses requiring Site Plan Approval as specified in Section 700 herein. Said map shall comply with the requirements of Section 730 herein.
- B. Evidence of property ownership, agreement or option to purchase, with all parties represented, must be provided at the time of application.
- C. Licenses. Any use currently licensed by Federal, State, County or Town Agencies and already operating within the town shall present evidence or currently valid licenses before any expansion permits are considered.
- D. Fee. The appropriate fee established by the Town Board in its fee structure shall be collected at the time of application.

### **Section 215 Fees**

Permit fees shall be established by resolution of the Town Board.

### **Section 220 Issuance of Zoning Permits**

When all requirements of this Law have been met, the Enforcement Officer shall issue a Zoning Permit and return one approved copy of the map to the applicant. One copy of the approved permit shall be filed in the Town Clerk's Office. If the permit has been denied, one copy of the map along with the reasons for denial shall be returned to the applicant.

### **Section 225 Termination of Permit**

- A. A Zoning Permit for any building for which construction has not commenced two (2) years after issuance shall expire, and such use may not be established nor construction begun unless a new permit has been issued.
- B. Any use that has been discontinued for a period of two (2) years or longer shall be considered abandoned and may not be re-instituted without the issuance of a new Zoning Permit.

### **Section 230 Certificate of Occupancy**

- A. No person shall occupy or use a structure or area of land requiring a Zoning Permit as set forth in Section 200, Part A above unless a Certificate of Occupancy has been issued by the Enforcement Officer.
- B. The applicant shall notify the Enforcement Officer when the structure is ready for final inspection. If satisfied that the applicable State and local regulations pertaining to the project have been complied with and that the project has been completed as specified on the approved application, the Enforcement Officer shall issue a certificate of occupancy granting permission to occupy or use the structure.

## ARTICLE 3 DEFINITIONS

### Section 300 Word Interpretation

Except where specifically defined herein all words used in this law shall carry their customary meaning. Doubt as to the precise meaning of a word or phrase shall be decided by the Board of Appeals.

The word "person" includes a firm association, organization, partnership, trust, company or corporation as well as an individual. Words used in the present tense include the future tense. The singular includes the plural. The words "shall" and "must" are mandatory. The word "lot" includes the words plot or parcel.

### Section 310 Definitions

Accessory Use or Structure. Any structure or a portion of a main structure, or use, located on the same premises and incidental and subordinate to the main structure or principal use and which customarily accompanies or is associated with such main structure or principal use, including but not limited to garages, sheds, swimming pools, and alternative energy systems.

Adult Arcade. An establishment where film, slides, or any other images of "specified sexual activities" or "specified anatomical areas" are available for viewing by the public.

Adult Bookstore or Adult Video Store. A bookstore or video-store where as one of its principal business purposes offers for sale or rental any printed matter or videocassettes that depict "specified anatomical areas" or "specified sexual activities." For the purpose of this definition, a principal business purpose shall mean that part of the business that constitutes 20 percent or more of the printed material or videocassettes for sale or rent in the establishment.

Adult Cabaret. A nightclub, bar, restaurant, juice bar, or similar establishment where persons appear in a state of nudity, or where there are live performances, films, videocassettes or slides characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Adult Use Or Entertainment Establishment. An establishment, or any part thereof, which includes any of the following: topless or bottomless dancers or waitresses; strippers; topless hair care or massages; entertainment where the servers or entertainers wear pasties or G-strings; adult cabaret; adult arcade; adult bookstore; or adult video-store.

Agricultural Use. Management of any land for general farming, truck gardening, nurseries, greenhouse, orchards; raising of cows, horses, pigs, poultry and other livestock for gain or profit; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

Agricultural Use Structure. Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

Animal Hospital. A business that treats animals and regularly houses them on the premises overnight and for extended periods for treatment.

Assisted Living Facility for Seniors. A residence for adults aged 55 years or older that provides temporary or long term care and services for residents who by reason of physical or other limitations are unable to live independently.

Bed and Breakfast Establishment. A residential dwelling that makes available a room or rooms for overnight accommodation to transient paying guests.

Campground. Any area designated for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designated for temporary shelter.

Disposal. A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, burned, incinerated, or placed in 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.

Dwelling Unit. One room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities, designed for occupancy by one family.

Erect a sign. To build, construct, alter, enlarge, relocate, attach, hang, place, affix or maintain any sign, and includes the painting of wall signs.

Family. One or more persons occupying a dwelling unit as a single functional family.

Functional Family. Group of persons sharing a dwelling unit and acting as a family unit, including but not limited to: (a) family members related by blood, marriage or adoption, (b) unrelated individuals owning or renting a premises as a group, and sharing kitchen, bathroom, and living area rooms, and (c) assisted living facilities occupying a dwelling designed as a single housing unit. This definition does not include persons occupying boarding houses, lodging houses, bed and breakfast establishments, motels, or hotels.

Group Camp. Any land or facility for seasonal housing and recreational educational or business; related use by private groups or semipublic groups, such as Boy or Girl Scout Camp, fraternal lodge or university or college conference center.

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.

Highway. A public roadway owned and maintained by the Town, County or State. As distinguished from the term "road" which means either a public or private road.

Home Based Business with Vehicles or Equipment. Business operated by the resident (owner, lessee, or renter) of a residential property that involves the storage or parking on said property



of trucks or heavy equipment such as used in construction, well drilling or earth moving businesses, provided that not more than three trucks exceeding 18,000 pounds gross vehicle weight are so stored or parked on the property. Such businesses include, but are not limited to, independent trucking, construction, well drilling, or earth moving businesses.

Home Based Manufacturing. A business located on the property where the business owner resides involving the manufacture and sale of goods, including but not limited to: wood products, furniture, boats, canoes, ceramics, quilts, baskets, crafts or electronic or computer equipment.

Home Occupation. Any personal, professional, service or business use conducted entirely within a dwelling or accessory building and carried on by a resident of the dwelling unit, which use is clearly incidental and secondary to the use of the property for residential purposes.

Interior Lot. A lot wholly located at least 300 feet from a public highway, excepting a 25 to 50 foot wide strip intended to provide driveway access to such highway.

Junk Yard. A licensed location for the placement and storage of junk in compliance with the "Town of Minerva Junk Storage Law" adopted July 2003, and any amendments thereto.

Kennel. Land or building in which four (4) or more dogs more than six (6) months old are housed, groomed, bred, boarded, or trained for a fee, or are sold.

Light Industry. A manufacturing or maintenance facility where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location. This term does not include mineral extractions, private and commercial sand and gravel extraction, sawmills, chipping mills, pallet mills and similar wood using facilities, or any manufacturing or assembly facility that involves: (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 smoke or airborne particulate matter except as incidental to the main industrial use, or (f) the creation of noise which would have an adverse impact upon neighboring properties.

Logging Staging Area. An area where logs are stored for future transport to another site, in use for 30 or more days per year, as a commercial operation.

Lot. Land or parcel of land not divided by streets, or roads, occupied or unoccupied or to be occupied by a building and its accessory buildings.

Luminous sign. Means an incandescent or other sign which gives forth its own light, or any transparent or translucent sign through which artificial light is emitted, including, without limitations any neon sign, fluorescent sign or advertising light display.

Manufacturing. Any process whereby the nature, size, or shape of articles or raw materials is changed, or where articles are assembled.

Minimum Building Setback, Front Yard. The minimum distance between any structure, and any additions thereto, and the centerline of the roadway upon which the lot abuts.

Minimum Building Setback, Side Yard. The minimum distance between any structure, and any additions thereto, and any side lot line of the property.

Minimum Building Setback, Side Yard. The minimum distance between any structure, and any additions thereto, and any rear lot line of the property.

Minimum Frontage on Public Highways. The minimum length of the front lot line along its boundary with any public road line or private road line. For corner lots, the minimum highway frontage shall apply along both roads that the lot borders upon.

Mining. A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial or commercial operation where one thousand (1000) tons or seven hundred fifty (750) cubic yards of material, whichever is less, is extracted within any successive twelve month period, but does not include the process of grading a lot preparatory to the construction of a building which has an approved Zoning Permit. This definition includes the preparation and processing of minerals, including any activities or processes or part thereof for the extraction or removal of minerals from their original location and/or the preparation, washing, cleaning, crushing, stockpiling, or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use.

Mobile Home. A dwelling built to (HUD) Manufactured Home Construction and Safety Standards designed for one family, which has the following distinguishing characteristics.

1. Manufactured as a moveable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation or a mobile home stand, or piers, with or without a basement or cellar.
2. Designed to be transported on its own chassis and wheels and connected to utilities after placement on a stand, foundation or piers.
3. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.
4. May be constructed in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing.

Mobile Home Park. Any lot on which three (3) or more mobile homes are parked or located and for which use said premises are offered to the public or to any person for a fee of any type, including cost sharing.

Motor Vehicle Repair Shop. A building, or portion thereof, used for making repairs to motor vehicles such as automobiles, trucks, snowmobiles, all-terrain vehicles, or lawn and garden equipment. This definition includes auto body shops.

Multiple Family Dwelling. A structure containing three or more dwelling units designed for occupancy in separate living quarters by three or more families. Dwelling units may be separated from each other by common wall in the form of attached housing, or may be above or below one another.

Non-complying Structure. Any structure which is in existence within a given zoning district on the effective date of this Law but which is not in conformance with the dimensional regulations for that zoning district as listed in Schedule B of this law.

Non-conforming Use. Any use which had been in existence on the effective date of this law but which is not permitted by this law within the zoning district in which it is located.

Nudity Or State Of Nudity. Means the appearance of "specified anatomical areas."

Open Space Recreation Use. Any recreation use particularly oriented to and utilizing the outdoor character of an area; including a snowmobile trail, all-terrain vehicle trail, bike trail, hiking trail, ski trail, playground, or picnic area.

Permitted Use. A use specifically allowed in a particular zoning district.

Portable Sawmill. A portable device used for cutting timber.

Public or Semi-Public Buildings and Grounds. Any of the following, including grounds and accessory buildings necessary for their use:

1. Churches, places of worship, parish houses and convents.
2. Cemeteries.
3. Public parks, playgrounds, and recreational areas when authorized or operated by a governmental authority.
4. Nursery schools, elementary schools, high schools, colleges or universities.
5. Public libraries and museums.
6. Not-for-profit fire, ambulance, and public safety buildings.
7. 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 Service Law of the State of New York, provided that they are duly licensed by the State of New York.
8. Not-for-profit membership club or corporation established for cultural, social or recreational purposes, such as a Veterans of Foreign Wars meeting hall or similar buildings used by similar organizations.
9. Not-for-profit recreational facilities, such as swimming, tennis, platform tennis, bowling, hockey, ice skating or other indoor or outdoor sports.
10. Day-care centers approved by the New York State Department of Social Welfare.

Public Utility Use. Includes facilities constructed, erected, or operated by municipal agencies or public utilities, including but not limited to: telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities; electrical, telephone, gas or water transmission or distribution cables; lines, wires, conduit, pipes, or other equipment including dams, buildings, towers or other structures or facilities associated with privately or publicly owned utilities. Privately owned or operated telecommunication facilities are not included in this definition.

Recreational Vehicle. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicles are deemed to include, but are not limited to: camping trailers, fifth wheel trailers, motor homes, travel trailers as defined herein, and truck campers.

Recreational Vehicle Park. Property consisting of a tract of land and providing ground areas for the parking of two (2) or more recreational vehicles or for the erection of tents or other structures for over-night occupancy, primarily for, but not exclusively for, recreational or vacation purposes.

Recreational Vehicle Storage Area. Any parcel of land where two or more recreational vehicles are stored for more than thirty (30) days per year.

Residential Cluster Development. A development consisting of three or more lots or dwelling units whereby individual lots or structures are clustered closer together than otherwise permitted by the road frontage, building setback, and other dimensional requirements of this law as

specified on Schedule B herein. A residential cluster development may consist of single family dwellings on individual lots, of two family dwellings on individual lots, of a townhouse development as defined herein, of a senior citizen housing development as defined herein, or of three or more residential structures on a single lot excepting mobile home parks. A parcel of land containing a single multi-family dwelling structure shall not be deemed to be a residential cluster development. A mobile home park shall not be deemed to be a residential cluster development; however a residential cluster development may include mobile homes each sited upon a single lot.

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 Center. A structure designed to contain two or more retail or service businesses.

Sawmill. Mill for processing timber into boards and lumber, as a commercial operation. For purposes of this law the term sawmill does not include portable devices used on a temporary basis for cutting timber harvested on the property where the portable device is temporarily located.

Senior Citizen Housing Development. A residential development that may contain attached housing units where at least one of the following conditions is true: (1) the federal Department of Housing and Urban Development has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program, (2) it is occupied solely by persons who are 62 years of age or older, or (3) it houses at least one person who is 55 years of age or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Shoreline. That line at which land adjoins the waters of any lake, pond, river or stream at the high water level.

Shoreline Building Setback. The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake or pond, rivers, or stream.

Shoreline Lot Width. The shortest or inverse distance between the boundary lines as it intersects the shoreline at the high water level.

Sign. Any sign, billboard, advertising structure or inscribed surface, pattern of artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any business, commercial, industrial, tourist or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype or advertising matter is made visible. The meaning of sign shall also include any sign currently in disuse but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign. The meaning of sign shall not include any sign erected by the Federal, State, county or local government or any department or agency thereof, any poster placed temporarily to advertise a civic event or an event sponsored by a house of worship, school, library, museum, social club or society, or any patriotic flag or banner not used for commercial advertising purposes. The meaning of sign shall also not include any sign having a sign area no greater than three square feet that is used simply to mark property boundaries, give directions regarding roads or trails, exclude hunting, fishing, or other activities, warn of any hazard or condition; if for a residence, denote the name and

address of the occupants of the premises on which the sign is located, or advertise the availability of the premises or some portion thereof for sale or lease.

Sign area. The total area of all faces or surfaces of a sign anywhere upon which writing or any illustrative or other artistic or expressive matter appears; or in cases where writing or illustrative, emblematic or other artistic or expressive matter appears; or, in cases where writing or illustrative, emblematic, or other artistic or expressive matter is not set against any face or surface, the total area within a single continuous rectangular perimeter enclosing the extreme limits of such writing or illustrative, emblematic or other artistic or expressive matter. The sign area of a sign having more than one face or surface on which writing or illustrative, emblematic or other artistic or expressive matter appears shall be the total area of all such faces or surfaces; but if a sign consists of two such faces or surfaces placed back to back, the sign area of the side having the greater sign area shall constitute the total sign area. The sign area of a group of connected or related signs shall be the sum of the sign areas of the signs belonging to it.

Single-family Dwelling. Any detached building containing one dwelling unit designed for occupancy by one family only.

Skirting, manufactured, mobile home. A new durable vinyl or aluminum product sold commercially and designed and intended as an enclosure for the space between the sectional mobile home and the sectional mobile home stand.

Skirting wall, mobile home. Material of a weatherproof nature that is used to enclose the space between the sectional mobile home and sectional mobile home stand. Skirting wall shall be masonry, or pressure treated lumber or other material that would be permitted by the New York State Residential Code for enclosing a crawl space of a single family home with no cellar.

Small Commercial. A retail sales or service establishment with a building footprint of 2500 square feet or less with no outdoor storage of goods or equipment. Building footprint shall mean the area occupied by the exterior of the building at ground level.

Solid Waste. All materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, medical and infectious waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles, and offal.

Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, additions to buildings, signs, and swimming pools.

Street, Road or Highway. A public or private thoroughfare, however designated, which provides legal access to abutting property.

Swimming Pool. Swimming pool shall mean any man-made, non-permeable, receptacle for water having a depth at any point greater than two feet and having a surface area of one-hundred and twenty (120) square feet or more, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above ground. An inflatable pool shall not be considered to be a swimming pool. A swimming pool shall be deemed to be a structure for all purposes under the provisions of this Local Law.

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.

Telecommunication antenna. A system of electrical conductors that transmit or receive radio frequency waves.

Telecommunications facility. Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular/pc's operation (also known as base transceiver station (BTS)).

Telecommunication tower. A structure on which one or more antenna will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

Temporary Sign. Any for sale or for rent sign, or any sign announcing an event which is removed within thirty (30) days of its placement.

Tourist Accommodation. Any hotel, motel, resort, tourist cabin or similar facility designed to house the general public.

Townhouse Development. A multiple family dwelling project of individual single family units arranged in a row of a least three (3) such units each on its own separate lot of record and wherein each unit has its own front and rear access to the outside, no unit located over another unit, and each unit is separated from any other unit by one or more common walls.

Two Family Dwelling. A detached residential dwelling containing two or more dwelling units designed for occupancy in separate living quarters by two or more families.

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and which is no longer than thirty two (32) feet.

Trucking. A facility for the storage of more than one truck exceeding gross vehicle weight of 18,000 pounds, or more than two smaller trucks, that are used principally for hire or for transporting goods not manufactured or warehoused on the site.

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

Waste Disposal Area. Any area for the disposal of solid waste. (See definitions of solid waste and disposal.)

Wind Power Generating Facility, Large. A wind conversion facility consisting of wind turbines, towers, and associated control or conversion electronics which has a rated capacity of more than 100 kW, and where electrical power is transferred to a transmission system for distribution to customers rather than for use on the site.

Wind Power Generating Facility, Small. A wind conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more that 100 kW and which is intended primarily to reduce on-site consumption of utility power.

## ARTICLE 4 ZONING DISTRICT REGULATIONS

### Section 400 Types of Districts

For the purpose of this law, the Town of Minerva is hereby divided into the following zoning districts:

HR	Hamlet Residential
HX	Hamlet Mixed Use
MI	Moderate Intensity
LI	Low Intensity
RU	Rural Use
RM	Resource Management

### Section 405 Zoning Map

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

### Section 410 Interpretation of District Boundaries on Zoning Map

- A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.
- B. Many of the zone boundaries are intended to coincide with the boundaries of the Land Use Areas as shown on the Adirondack Park Land Use and Development Plan Map, used for regulatory purposes by the Adirondack Park Agency, as it existed at the date of adoption of the Town of Minerva Zoning Law or as subsequently amended. Boundaries of said map are generally intended to follow roads, rivers, streams, great lot or tract lines, and standard setbacks of 1/10 mile (528 feet) or ¼ mile (1340 feet) from any of the above. Where boundaries on the Town of Minerva Zoning Map are indicated as generally following any of the above lines, zone boundaries shall be construed to follow such lines.
- C. Where zone district boundaries are indicated as approximately following lot lines within Hamlet zones, such boundaries shall be construed to be coincidental with the lot lines.

### Section 415 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 Board of Appeals, and after public hearing, the provisions of the less restricted portion of the lot may be extended up to 100 feet into the more restricted portion. An extension of more than 100 feet shall require a variance or a map amendment.

### Section 420 Permitted Use Chart

Schedule A, "Permitted Use Chart," of this law shall govern the types of land uses that are permitted within each Zoning District.

## **Section 425 Interpretation of Permitted Use Chart**

- A. Land uses designated by an "p" on Schedule A are permitted uses within the zoning district.
- B. Land uses designated by an "S" on Schedule A are uses permitted only after Site Plan Approval by the Planning Board as set forth in Article 7 herein.
- C. A use shall be deemed prohibited within a zoning district unless it is listed as a permitted use or as a use permitted after Site Plan Approval within the district.

## **Section 430 Lot Size and Dimension Chart**

Schedule B, "Lot Size and Dimension Chart," of this law shall govern lot size, lot dimensions, and building setbacks on a lot.

## **Section 435 Minimum Lot Size in Hamlets**

The minimum lot size in Hamlet Residential (HR) and Hamlet Mixed Use (HX) zones shall be 20,000 square feet, except for the following uses for which the minimum lot size shall be 40,000 square feet.

- Commercial riding stables
- Automobile, vehicle, or lawn and garden equipment sales
- Gas station, convenience store with gas pumps
- Home based business with vehicles or equipment
- Light industry
- Motor vehicle repair shop
- Retail center

## **Section 440 Required Road Frontage**

- A. Each building lot shall have the minimum road frontage required by Schedule B herein, excepting: (a) lots within a residential cluster development approved pursuant to Section 634 and (b) interior lots as defined herein.
- B. Corner lots shall have the required minimum road frontage along each road.

## **Section 445 Measurement of Structure Setbacks**

- A. When establishing measurements to meet required setbacks, measurements shall be taken from the center line of the roadway to the closest protruding part of the use or structure, to include such projecting facilities as porches, carports, and attached garages.
- B. Corner lots. For purposes of determining required setbacks from lot lines, corner lots of rectangular shape shall be deemed to have two front yards and two side yards, and no rear yard.

## **Section 450 Green Space Buffer**

In addition to the requirements of Schedule B, the following shall apply in all zones *except* Hamlet Residential (HR) and Hamlet Mixed Use (HX).

- A. A minimum thirty (30) feet green space buffer along side and rear property lines is required for all non-residential uses that border upon an existing residential property.



- B. The green space buffer 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.
- C. For purposes of this section, an existing residential property is defined as any lot 10 acres or less in size for which the principle use is residential, and upon which a dwelling is located at the time of Site Plan Approval.
- D. At the time of Site Plan Approval the Planning Board 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: (a) that side does not border upon an existing residential property, and (b) future development of adjacent properties is not impaired.

### **Section 455 Maximum Height of Structures**

The maximum height of structures in all zoning districts shall be 35 feet, excepting the following. (1) Churches, chimneys, flagpoles, farm structures, and electrical transmission poles and lines are exempt from the maximum height requirement. (2) The maximum height of telecommunication towers is governed by the provisions of Section 640.

## **ARTICLE 5 SUPPLEMENTAL REGULATIONS**

### **Section 500 Principal Buildings Per Lot**

- A. There shall be only one principal residential building per lot, excepting the following: Multiple buildings may be placed on a single lot within a residential cluster development approved pursuant to Section 634 herein.
- B. A principal residential building means the building used as a dwelling, and does not include accessory buildings or structures. A tourist cabin or similar structure for rent or hire involving three hundred (300) square feet or more of floor space shall be deemed to constitute one principal residential building. A single structure containing a commercial use which is also used as a residence shall be considered to be one principal residential building for the purposes of this section. 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 single principal building.

### **Section 510 Existing Undersized Lots of Record**

- A. Any lot legally recorded prior to the adoption of this law and whose prior highway frontage is less than the minimum requirements specified on Schedule B herein for the district in which it is located shall be considered as complying with these regulations, and no variance shall be required for use of the lot, provided that: (1) such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum highway frontage required for that district, and (2) minimum front, side and rear building setbacks as specified on Schedule B herein are complied with.
- B. Such undersized lots of record may only be used for the purpose of erecting one single-family dwelling.
- C. Existing structures located on such undersized lots of record may be reconstructed or expanded without the issuance of a variance provided that minimum front, side and rear building setbacks as specified on Schedule B herein are complied with.

## **Section 515 Non-conforming Building Setbacks**

Buildings existing prior to the adoption of this law which are placed closer to front, side or rear lot lines than permitted by Schedule B herein shall not be expanded within such building setbacks without the issuance of a variance by the Board of Appeals.

## **Section 520 Non-conforming Uses**

Uses of land or structures which lawfully existed prior to the adoption of this law and which would be prohibited or restricted by these regulations, may be continued subject to the following conditions.

A. Enlargement of buildings.

1. Buildings containing a non-conforming use may be enlarged by an amount not to exceed twenty-five (25) percent the size of the building without issuance of a variance by the Board of Appeals, provided that minimum building setbacks specified on Schedule B and green space buffer requirements of Section 450 are complied with.
2. Buildings that are non-conforming because they do not comply with the minimum building setbacks specified in Schedule B or green space buffer requirements of Section 445 shall not be expanded within the required building setback or buffer without the issuance of a variance by the Board of Appeals.

B. Expansion of area. No non-conforming use may expand to occupy a greater area of land without the issuance of a variance by the Board of Appeals.

C. Special exception. The Zoning Board of Appeals may grant a special exception to allow expansion of a non-conforming use greater than permitted in Parts A and B above, provided that it finds that such expansion will not cause a significant increase in noise, traffic, odor, litter, or other adverse impact upon neighboring properties or upon the community. In granting the special exception the Board of Appeals may impose any conditions it deems necessary to make the non-conforming use more compatible with the district in which it is located.

D. Unsafe structures. Any structure or portion thereof declared unsafe by proper authority may be restored to a safe condition.

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 re-established within one year of the sale as specified in Part F above.

## **Section 525 Signs**

### **A. Number of signs**

1. Not more than two signs may be erected or maintained advertising or otherwise relating to a single business or activity, except for directional signs that do not exceed two square feet in sign area and are limited to such texts as "Office," "Entrance," "Exit," "Parking," and "No Parking."
2. Not more than one pole sign may be erected or maintained upon the premises of any gasoline or other automotive service station.

### **B. Design and location of signs**

1. No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. All luminous signs, indirectly illuminated signs and lighting devices shall employ only lights emitting light of constant intensity.
2. No luminous sign, indirectly illuminated sign or lighting device shall be placed or directed so as to cause glaring or non-diffuse beams of light to be cast upon any public street, highway, sidewalk or adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall in its construction employ any mirror or mirror-like surface, nor any day-glowing or other fluorescent paint or pigment.
3. No sign or part thereof shall contain or consist of any banner, pennant, ribbon, streamer, spinner or other similar moving, fluttering or revolving device. Such devices, as well as strings of lights, shall not be used for advertising or attracting attention whether or not they are part of any sign. No sign or part thereof may rotate or move back and forth.
4. No sign shall contain any neon or similar lighting.
5. No sign shall be placed upon or be supported by any water body or any tree, rock or other natural object rather than the ground.
6. No sign shall be erected or maintained upon the roof of any building or structure.
7. No motor vehicle on which is placed, or painted, any sign intending to advertise the premises shall be parked or stationed on such premises in a manner primarily intended to display the sign.
8. No sign shall project more than three (3) feet from the wall of any building, nor shall any sign project from the roof of any building or into any public way.
9. No sign shall be erected or maintained within the right-of-way, nor within 10 feet of the roadbed of any public street or highway; nor shall any sign exceeding 20 square feet in the sign area be erected or maintained within 20 feet of the roadbed of any public street or highway; provided, however, that these minimum setback distances shall not apply to signs erected upon any building entirely housing the business or activity with which the signs are principally associated. For the purposes of this provision, the roadbed shall mean the trafficable portion of a road, street, or highway, bounded on either side by the outer edge of the shoulder or guardrail, whichever extends farthest. Where there is no shoulder or guardrail, there shall be deemed to be a shoulder extending four feet from the outer edge of the pavement or unpaved traffic lanes.
10. No sign shall be erected or maintained more than 200 feet from the business or activity with which it is principally associated. For the purposes of this provision, the location of a business or activity shall include all of the principal private access road connecting the actual place of that business or activity with a public street or highway.

### **C. Size, height and components of signs**

1. No sign shall be erected or maintained having a sign area greater than 32 square feet. No luminous sign shall be erected or maintained having a sign area greater than 15 square feet.
2. If two signs are erected or maintained with respect to a given activity, the total sign area of the two signs shall not exceed 60 square feet.
3. No pole sign erected or maintained upon the premises of any gasoline or other automotive service station shall have a sign area greater than 15 square feet.
4. No sign shall exceed 20 feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.
5. Signs shall be made of stone, brick and wood, shall be simple in design and color scheme and shall contain a minimal number of component parts.

D. Number of permitted signs where more than one principal activity is being conducted.

Notwithstanding the standard governing the number of signs permitted to be erected or maintained on any parcel of real property set forth in Part A of this section, the following standards shall apply when more than one principal activity is proposed to be conducted on a separate and discrete basis upon the parcel of real property associated with the project, such as in the case of a shopping center or other multiple commercial use facility.

1. A single free-standing sign not in excess of 32 square feet in sign area nor more than 20 feet in height may be erected identifying the center or facility as a whole, but shall not contain advertising matter.
2. One individual wall sign not in excess of 20 square feet in sign area may be erected for each separate principal activity, such as a shop or store.

E. Residential and other non-business uses

In the case of residential uses and other non-business oriented uses only one sign may be erected or maintained upon a parcel of real property, the sign area may not exceed eight (8) square feet, and the overall height of the sign may not exceed six (6) feet.

**Section 530 Off-Road Parking**

- A. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods.
- B. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.
- C. Violation is constituted by an observed overload of parking on to off-site areas neighboring property or road right-of-ways more than three times per month.
- D. A parking space shall not be less than 10 ft x 20 ft exclusive of access ways and driveways.
- E. No non-residential parking space shall be located within ten (10) feet of a side lot line.
- F. 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 reestablished.
- G. In calculating the number of required parking spaces, fractional portions shall be rounded to the nearest whole space.
- H. For uses not specifically listed in part J below, the requirement shall be the same as for the most similar use listed, or as otherwise provided in this law.
- I. The Planning Board shall have the authority to reduce or increase the requirements stated in J below at the time of Site Plan Approval. Requirements may be reduced if the applicant can demonstrate the need for fewer parking spaces.

J. Minimum parking standards:

Residential use, except senior citizen housing	2 spaces per unit
Senior citizen housing	1 space per unit
Professional offices	1 space per 200 s.f. of office area
Retail stores and service shops	1 space per 200 s.f. of gross floor area
Place of public assembly (eating and drinking establishment, church, meeting hall, funeral home, and similar uses)	1 space per 3 seats
Motel, bed and breakfast	1 space per unit or sleeping room
Place of employment	1 space per employee

**Section 535 Storage of Petroleum Based Products**

Any storage of petroleum based products, including but not limited to gasoline, oil or kerosene, shall include adequate provision for insuring that leaks are prevented, and that any leak, rupture or spill will be contained and not introduced into any reservoir, pond, stream, creek or any other water body.

**Section 540 Safe Driveway Locations**

- A. This section shall apply to any new driveway or entrance onto a public road constructed in conjunction with any use or building for which a zoning permit is sought.
- B. A driveway permit shall be required for any new driveway or entry onto any public highway. Such permit shall be obtained from the appropriate agency: either (1) the New York State Department of Transportation, (2) the Essex County Division of Highways, or (3) the Town of Minerva Superintendent of Highways.
- C. In the case of Town Highways, the Town Highway Superintendent shall be guided by the following standards in issuing said permit.
  - 1. To the extent feasible, such driveway or entrance 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:

Design Speed of Highway	Left Turn	Right Turn
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.

- 2. This section is intended to insure that the best location for a driveway or entrance is chosen given the unique characteristics of an existing lot. It is not intended to prevent development on any lot, but to minimize any possible hazards due to driveway location.

## **Section 545 Outdoor Lighting**

In any district where outdoor lighting is used in conjunction with any use, such lighting shall be directed down and away from any adjoining properties.

## **ARTICLE 6 ADDITIONAL REGULATIONS FOR CERTAIN USES**

### **Section 600 Adult Use and Entertainment Establishments**

- A. No adult use and entertainment establishment shall be located within 500 feet of: the property line of any preexisting public or semi-public buildings or grounds as defined herein, or any preexisting dwelling.
- B. The adult use shall be conducted entirely within an enclosed building. No "specified anatomical area" or "specified sexual activity" (see definitions) shall be visible at any time from outside the building. This requirement shall also apply to any signs or displays.
- C. No outside displays or advertising other than an approved sign shall be permitted.
- D. The serving of alcoholic beverages shall be prohibited unless specifically permitted by the Planning Board in their review of the site plan.

### **Section 602 Campgrounds, Recreational Vehicle Parks**

- A. Minimum lot size: 10 acres.
- B. Campgrounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreational purposes. The removal of wheels, and placement of a unit on a foundation in a camping ground is prohibited.
- C. Each recreational vehicle park shall have adequate access to a public highway, and each recreational vehicle site shall be serviced from interior roadways.
- D. A recreational vehicle park shall be divided into campsites. The corners of each campsite shall be clearly marked, and each campsite shall be numbered for identification.
- E. The minimum size of each campsite shall be 2500 square feet, provided however, that there shall be no more than 10 campsites per acre.
- F. There shall be a minimum fifty (50) feet green space buffer surrounding the recreational vehicle park. No campsite or portion thereof, building, structure or roadway shall be placed within the buffer area.
- G. No campsite shall be located within seventy-five (75) feet of the high water level of any water body, and shall otherwise comply with the setbacks from shorelines required by Schedule B of this law.
- H. The Planning Board may require that the recreational vehicle park be substantially screened from the view of public roads and neighboring properties by use of vegetation and/or fencing.
- I. Each recreational vehicle park shall comply with all applicable rules and regulations of the New York State Department of Health.
- J. Adequate plans shall be made for the collection and disposal of garbage, rubbish and solid wastes generated within the park. There shall be no on-lot exposed garbage, junk, or other wastes. The operator shall provide for the pick up of trash at least once a week.
- K. Mobile homes, whether permanent or temporary, shall not be parked in any campground.

## **Section 604 Condominiums**

- A. Requirements of this law, including use restrictions and dimensional requirements, shall be determined by the physical form and proposed use of the development, not by the form of ownership.
- B. A multiple family dwelling which is also a condominium development shall meet the standards for a multiple family dwelling.
- C. A single family housing development which is also a condominium development shall meet the lot size and setback requirements for single family dwellings, and its design and layout shall be approved by the Planning Board in accordance with the Town of Minerva Land Subdivision Law.
- D. A residential cluster development which is also a condominium development shall comply with the regulations for residential cluster development as provided herein.
- E. All state regulations pertaining to the creation of a condominium declaration and offering plan, and the formation of a Board of Managers for commonly owned property shall be complied with.

## **Section 606 Home Based Business With Vehicles Or Equipment**

- A. Any truck or trailer, piece of earth moving equipment, well-drilling rig, or other similar heavy equipment or vehicle used in the conduct of the business may be parked or stored on the property where the business owner resides, provided that any such trucks, trailers or equipment are parked and/or stored under conditions and in a location approved by the Planning Board.
- B. Any materials stored outdoors on the property for use in such business must be stored under conditions and in a location approved by the Planning Board.
- C. No use shall create a nuisance on any surrounding property, including but not limited to, noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or traffic hazard.

## **Section 608 Home based Manufacturing**

- A. Home based manufacturing must be conducted within a dwelling that is a bona fide residence of the principal practitioner, or within an accessory building on the residential property such as a garage or barn.
- B. Not more than two persons other than a resident of the dwelling shall be employed as part of the home based manufacturing business.
- C. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home based manufacturing exists.
- D. There shall be no outdoor storage of materials used in the manufacture of the product.
- E. Goods for sale may displayed out of doors in locations approved by the Planning Board.
- F. There shall be sufficient off-street parking spaces provided such that at no time are vehicles parked along public roads or highways.

## **Section 610 Home Occupations**

- A. A home occupation must be conducted within a dwelling that is a bona fide residence of the principal practitioner, or within an accessory building on the residential property such as a garage.

- B. No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation.
- C. Not more than two persons other than a resident of the dwelling shall be employed as part of the home occupation.
- D. In no way shall the appearance of the structure be altered or the operation within the residence be conducted in a manner which would cause the residence to differ from its residential character either by use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
- E. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- F. There shall be no outdoor display of goods or products. There shall be no outdoor storage of materials used in the home occupation.
- G. There shall be sufficient off-street parking spaces provided such that at no time are vehicles parked along public roads or highways.
- H. Signage shall be limited to one sign no larger than eight (8) square feet in area, and that otherwise complies with the sign regulations contained herein.
- I. A home occupation shall not include any of the following: garages and shops for the repair or maintenance of motor vehicles; commercial stables and kennels; restaurants; tourist homes; rooming or boarding houses; clinics; musical and dancing instruction to groups exceeding four (4) pupils; convalescent homes; mortuary establishments; and other trades and businesses of a similar nature. A home occupation shall not include any trucking business, construction business, well-drilling business, excavation business or similar business that involves parking or storing on the property at any time any truck or trailer greater than 20 feet in length, any piece of earth moving equipment, any well-drilling rig, or any other similar heavy equipment or vehicle used in the conduct of the business.

## **Section 612 Individually Sited Mobile Homes**

- A. Construction Standards. 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 permit applicant is responsible for providing adequate evidence that these standards have been complied with. The presence of a permanent certification label affixed to the mobile home by the manufacturer shall be presumptive evidence that the construction of a mobile home is in compliance with such standards.
- B. Roof, smoke detectors, floors, doors, windows. A mobile home must have a roof of 3 ½ pitch without leaks or other defects, two (2) operable smoke detectors, one (1) of which must be electric, floors free from defects and which are structurally sound, doors which are serviceable and undamaged so they latch shut, windows free of broken glass or screens and which are not patched.
- C. Repair of damage. A mobile home shall have no damage to the exterior. All cuts, dents, holes and rust shall be repaired or replaced prior to being brought into the Town of Minerva. Said mobile home shall be anchored in conformance with Residential Code of New York State.
- D. Footings and Foundations. Each mobile home shall be mounted upon a foundation system in compliance with Section AE502 of the "Residential Code of New York State."



- E. Skirting. Mobile homes shall be enclosed with manufactured skirting or a skirting wall within 90 days. No Certificate of occupancy shall be issued until the Enforcement Officer verifies that such manufactured skirting or skirting wall has been properly installed. No changes shall be made to the manufactured skirting or skirting wall of a sectional mobile home which will make the manufactured skirting or skirting wall in violation of this code or any other applicable code law, rule, regulation, ordinance or local law.
- F. Additions. Any additional structure or addition added to or in close proximity of the mobile home should be compatible in appearance and must be structurally sound. A separate permit shall be obtained if said structure or addition is greater than one hundred and forty (140) square feet in floor area.
- G. Appearance standards. All mobile homes shall be provided with exterior walls of traditional site-built appearance made of clapboards, shingles, and shakes; masonry, wood board-and-batten; or "Texture 1-11" exterior plywood.
- H. Objects on roof. Tires, pieces of metal, boards, cement blocks, bricks and similar loose objects shall not be placed upon a roof a mobile home.
- I. Use of mobile home. No mobile home may be used for any purpose other than a single family residence. A mobile home may not be used as a storage building, except as provided in Part I below.
- J. Exceptions. None of the provisions of this section shall be applicable to any mobile home located on the site of a construction project, survey project or other similar work project and used solely as a field office or work or tool house in connection with such project, provided such mobile is removed from said site within thirty (30) days after completion of such project and provided permission of the Enforcement Officer is obtained before said mobile home is brought into the Town of Minerva.

## **Section 614 Industrial and Warehousing Uses**

All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that materials are shielded from view from public roads and adjacent non-industrial properties by fencing, landscaping or other appropriate measures.

## **Section 616 Junkyards**

Junkyards shall comply with the Town of Minerva "Junk Storage Law" adopted May, 2003, and any amendments thereto.

## **Section 618 Keeping of Animals**

- A. No building or structure in which fowl, hogs, cows, horses, goats, sheep or other farm animals are kept shall be less than one hundred (100) feet from any side or rear property line, and shall comply with the minimum structure setback from highways as specified on Schedule B of this law.
- B. Keeping of pigs or fowl as a commercial operation.
  - 1. Minimum lot size: fifteen (15) acres
  - 2. Adequate landscaping or fencing shall be provided to create a visual buffer between such facility and adjacent property.

3. All buildings, structures or other accessory uses shall be at least one hundred (100) feet from side and rear lot lines, and at least one-hundred and twenty five (125) feet from the center line of any public or private road.
4. No animals shall be kept, either indoors or outdoors, within five hundred (500) feet of any neighboring residential structure that was in existence at the time that the pig or fowl operation became a legally established use.

### **Section 620 Kennels, Animal Hospitals**

1. Minimum lot size: five (5) acres
2. Adequate landscaping or fencing shall be provided to create a visual buffer between such facility and adjacent property.
3. All buildings, structures or other accessory uses shall be at least (50) feet from any property line.
4. No animals shall be kept, either indoors or outdoors, within 500 feet of any neighboring residential structure that was in existence at the time that the kennel became a legally established use.
5. All animals, except livestock, shall be kept within a totally enclosed building between 6 p.m. and 6 a.m.

### **Section 622 Logging Staging Area**

All logs shall be stored in a location out of sight from neighboring properties or public roads. This provision shall not apply to the non-commercial storage of logs, or to the temporary storage of logs fewer than 30 days per year. (See definition of logging staging area.)

### **Section 624 Mining**

- A. All mining activities shall obtain required permits from the NYS Department of Environmental Conservation.
- B. Mining activities or haul routes shall not create hazardous conditions on Town of Minerva highways for vehicles, bicyclists, pedestrians or residents living along such highways.
- C. Haul routes shall not create significant noise or vibration impacts upon residential neighborhoods along Town of Minerva Highways.
- D. Site distance at points of entry onto local roads shall comply with standards established by the NYS Department of Transportation as stated in the publication "Policy and Standards for Entrances to State Highways" as specified in Section 720, Part C herein.
- E. No mining activity except travel along haul roads shall be conducted within 500 feet of an existing residential structure.

### **Section 626 Motor Vehicle Repair Shop**

- A. Minimum lot size shall be 40,000 square feet.
- B. All vehicles awaiting service, pick-up by customers, or otherwise stored overnight on the lot shall be parked within a vehicle parking area approved by the Planning Board.
- C. All junk wastes such as discarded parts or portions of vehicles shall be stored in an enclosed structure or fenced area so as to not be visible from adjacent properties.
- D. The Planning Board shall have the authority to require vegetative screening and/or solid or picket fencing in order to reduce visual impact upon surrounding properties.

## **Section 628 Multi-family Dwellings**

Any multi-family dwelling structure shall be set back a minimum of three-hundred (300) feet from any existing public road. The 300 feet buffer shall be maintained as a vegetated area. Existing vegetation shall be retained to the extent feasible in order to screen the development from view of the public road. This requirement may be reduced by the Planning Board at the time of site plan approval without the issuance of a variance by the Board of Appeals provided that in the judgment of the Planning Board the proposed multi-family dwelling is substantially screened from view of a public road or otherwise does not adversely impact the visual character of the area.

## **Section 630 Recreational Vehicles not in Recreational Vehicle Parks**

- A. No recreational vehicle shall be parked, occupied or stored on a property except:
1. Two recreational vehicles may be stored, unoccupied, at an owners residence in any land use district.
  2. A single recreational vehicle used as a seasonal residence is permitted to be parked or occupied on any property within any land use district for which it is a permitted use (see Schedule A of this law) for a maximum of one-hundred and twenty (120) days per calendar year.
  3. Recreational vehicles may be parked, occupied or stored in a legally established recreational vehicle park, or they may be parked or stored in a legally established recreational vehicle storage area.
- B. Any recreational vehicles parked, occupied or stored in accordance with Part A.1 or Part A.2 above, shall be located either: (1) within an enclosed garage or (2) out-of-doors no closer to the property line than as specified by the minimum front yard, rear yard and side yard requirements for residential uses as shown on Schedule B of this law.

## **Section 632 Recreational Vehicle Storage Area**

All recreational vehicles shall be stored in locations not visible from public roads or neighboring properties.

## **Section 634 Residential Cluster Development**

Dwelling units may be placed closer together than otherwise permitted by the road frontage, building setback and other dimensional requirements of this law provided that the provisions of this section are satisfied. (See also definition of residential cluster development.)

- A. All lots and/or structures shall front on and have access to an internal road or drive constructed to serve the cluster development, or upon a road or drive constructed to serve a previously approved residential cluster development. No individual lot or dwelling unit shall have direct access upon an existing public road not constructed to serve an approved residential cluster development.
- B. All structures within a cluster development shall be set back a minimum of three-hundred (300) feet from any existing public road. The 300 feet buffer shall be maintained as a vegetated area. Existing vegetation shall be retained to the extent feasible in order to screen the development from view of the public road.
- C. Requirements A and B above may be reduced by the Planning Board at the time of site plan approval without the issuance of a variance by the Board of Appeals provided that in the judgment of the Planning Board the proposed residential cluster development is

substantially screened from view of a public road or otherwise does not adversely impact the visual character of the area.

- D. A residential cluster development shall have minimum frontage of fifty (50) feet upon an existing public road.
- E. Open areas within the site shall be chosen so as to facilitate one or more of the following objectives: to preserve views, to provide recreation areas, to serve as a buffer between neighboring properties or streets, to preserve wooded areas and hedgerows, to preserve wildlife habitat, to preserve historic sites or structures, to protect environmentally sensitive features, or to protect any areas that enhance or preserve the quality of the natural or residential environment, and/or benefit the community at large.
- F. Provision, whether by deed restriction, covenant, or other legal arrangement, shall be made to ensure that the undeveloped portion of the parcel remain as permanent open space or recreation area: (a) Designated open space areas may be owned privately by individuals. Adequate provision shall be made by covenant, deed restriction or other legal means to insure that future owners are aware of the development restrictions upon such areas. (b) Open space or recreation areas may be owned in common by individuals within the subdivision. In such case, covenants or other legal arrangements shall specify ownership of the cluster open space, method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, and any other specifications deemed necessary by the Planning Board. (c) Open space or recreation areas may be deeded to the Town upon approval by the Town Board.
- G. Cluster development review and approval shall be undertaken simultaneously with subdivision plat review and approval. All provisions of New York State Town Law, Section 278 shall apply.
- H. In their approval of site plans for cluster development the Planning Board shall maintain accurate records and maps showing the location of permanent open spaces. No further development upon the designated open spaces shall be permitted.

### **Section 636 Retail Gasoline Outlet**

- A. Gasoline and/or fuel pumps and above ground or underground fuel storage tanks shall not be located closer to any side or rear lot line than the minimum setbacks for buildings as specified in Schedule B of this law.
- B. Gas pumps shall be set back far enough from the road line so as to not present a traffic hazard as a result of vehicles waiting in line at the gas pumps.

### **Section 638 Seasonal Roadside Stands**

Seasonal roadside stands shall be located at least ten (10) feet from any public highway right-of-way. Entry, exit and parking shall not constitute a traffic hazard.

### **Section 640 Telecommunications Facilities**

- A. Applicability, Waivers. The Planning Board may waive any or all of the requirements of this section for applicants proposing minor changes to existing facilities and for applicants proposing the use of camouflage for a telecommunication tower when the board finds that such camouflage significantly reduces visual impact to the surrounding area.

- B. Zoning Permit. No Zoning Permit shall be issued until the applicant provides proof that space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area.
- C. General standards. No site plan for a telecommunications facility shall be approved by the Planning Board unless it finds that such facility:
1. Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities.
  2. Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies.
  3. Will be designed and constructed in a manner which minimizes visual impact to the extent practical.
  4. Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
- D. Co-location. The shared use of existing telecommunications towers or other structures shall be preferred to the construction of new facilities. Any Zoning Permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing structure within a reasonable distance, regardless of municipal boundaries, of the site. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunication facilities due to one or more of the following reasons:
1. The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities.
  2. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
  3. Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
  4. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures.
  5. The property owner or owner of the existing telecommunication facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.
- D. Fall zones. Telecommunication facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication facilities.
- E. Setbacks. Telecommunication facilities shall comply with all minimum setbacks for buildings as specified on Schedule B of this law. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities. Additional setbacks may be required by the Planning Board to contain on-site substantially all icefall or debris from tower failure and/or to preserve privacy of adjoining residential and public property.
- F. Lighting. Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Notwithstanding, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety. The board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that

location. The applicant must provide both standard and alternative lighting and marking plans for the board's review.

G. Visibility and aesthetics

1. The maximum height for telecommunication towers permitted under this article, including any antennas or other devices extending above the tower, measured from the ground surface shall be 90 feet.
2. Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory uses shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
3. The project shall be designed to blend with the natural and/or manmade surroundings to the maximum extent feasible.
4. Structures offering slender silhouettes (i.e. monopoles or guyed tower) may be preferable to freestanding lattice structures except where such freestanding structures offer capacity for future shared use. The Planning Board may consider the type of structure being proposed and the surrounding area.
5. The applicant must examine the feasibility of designing a proposed telecommunication tower to accommodate future demand for additional facilities.

I. Vegetation and screening

1. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter shall take place prior to approval of the site plan. Clear-cutting of all trees in a single contiguous area shall be minimized to the extent possible.
2. The Planning Board may require appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, or public roads.

J. Security

1. Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than six feet in height.
2. There shall be no permanent climbing pegs within fifteen feet (15) of the ground.
3. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.
4. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles.

K. Engineering standards. All telecommunication facilities shall be built, operated and maintained to acceptable industry standards. Each application must contain a site plan for the facility containing the signature of an engineer licensed by the State of New York.

L. Abandonment and removal. At the time of submission of the application for a telecommunication facility the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally

intended function for more than twelve consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

- K. Submission requirements. In addition to the submission requirements for Site Plan Approvals stated in Section 730 herein, the Planning Board, at its discretion, may require that a visual impact assessment be prepared consisting of a map showing all areas from which a proposed telecommunications tower could be seen.

## **Section 642 Wind Power Generating Facilities**

A. Large Wind Power Generating Facility (see definition).

1. A wind power generating facility shall not create sound levels exceeding 55 dBA as measured from the closest property line.
2. A security fence shall be installed around elements all of the facility that may pose a possible hazard or risk to the public.
3. Maximum height of any tower shall be 90 feet.
4. Minimum setback from any lot line shall be 100 feet plus the height of the tower.

B. Small Wind Power Generating Facility (see definition).

1. A wind power generating facility shall not create sound levels exceeding 55 dBA as measured from the closest property line.
2. Maximum height of any tower shall be 90 feet.
3. Minimum setback from any lot line shall be 100 feet plus the height of the tower.

- C. Tower Height. For purposes of this section, height of tower shall be measured from the ground to the top of the fixed portion of the tower, excluding the wind turbine itself.

## **Section 644 Fuel Distribution Business**

A. No fuel distribution business area shall be located within:

1. Two-hundred feet (200') of any adjoining property line;
2. Four-hundred feet (400') of any public park, church, educational facility, nursing home, public building or other place of public gathering;
3. Two-hundred feet (200') of any wetland or high water level of any stream, lake, pond, or other body of water;
4. Two-hundred, twenty-five feet (225') from the center of any road.

B. Fencing & Screening

There must be erected and maintained an eight-foot-high (8') fence adequate to prohibit the entrance of children and others into the area of the activity of business and to contain within such fence the fuel storage area. Whenever the facility is not open for business, or temporarily not supervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. Fencing requirements may be waived where topography or other natural conditions effectively prohibits the entrance of children and others.

Where a fuel distribution business is or would be visible from a public highway or from neighboring properties, the fence shall be of a design approved by the Planning Board and sufficient to totally screen the fuel storage area from view. The Planning Board may approve

the planting of a vegetative screen consisting of evergreen trees or shrubbery as an alternative to such fence.

#### C. Fire Protection

Inside and adjacent to any screening and adjacent to the boundary of the fuel storage area there must be maintained at least a fifteen-foot (15') wide fire lane which shall be kept open and free of any materials. All storage areas shall be accessible by fire trucks.

#### D. Approved Storage

The Planning Board may specify what types of fuel or materials may be stored at the facility, where they may be stored, and the manner in which they may be stored in order to protect the public from risk of fire, explosion, surface or groundwater contamination, or other hazard.

### **Section 646 Portable Sawmills**

- A. This section shall apply to any portable sawmill used on any one property 31 or more days within any consecutive 12 month period.
- B. No portable sawmill shall be operated within 500 feet of any neighboring residential structure.
- C. No portable sawmill shall be operated between the hours of 9 p.m. to 6 a.m.

## **ARTICLE 7 SITE PLAN REVIEW AND APPROVAL**

### **Section 700 Uses Requiring Site Plan Approval**

All uses designated by the letter "S" on Schedule A herein shall require Site Plan Approval by the Planning Board before a Zoning Permit may be issued by the Enforcement Officer.

### **Section 705 Purposes, Compliance With Standards**

The purpose of Site Plan Review and Approval is to insure that the design, layout and operation of a permitted use within a district: (a) minimizes adverse impacts upon neighboring properties, the natural and man-made environment, roadways, and the community in general, (b) is in keeping with the character of the area in which it is located, and (c) is consistent with the goals and objectives of the Town of Minerva Comprehensive Plan. Accordingly, no site plan shall be approved by the Planning Board unless it finds that the standards stated in this article are satisfied.

### **Section 710 Conditions**

The Planning Board shall have the authority to impose such conditions and restrictions on the design, layout and operation of a proposed use it deems reasonable to fulfill the purposes of this article, including but not limited to:

1. Requiring landscaping or vegetative screening to minimize adverse visual impact.
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 be conducted indoors.
6. Limiting hours of operation to reduce noise impacts.



7. Requiring storm water retention ponds or other drainage and pollution control devices.

### **Section 715 Waivers of Standards**

The Planning Board shall have the authority to waive or modify any of the requirements of Sections 720 below at the time of Site Plan Review.

### **Section 720 Site Plan Approval Standards**

- Impact Upon Surrounding Properties. Development shall be planned and undertaken so as to minimize impacts upon adjoining and nearby land uses, especially residential uses, and shall not adversely affect the existing character of the surrounding properties. The proposed use shall not create 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 any other cause. The location, nature and height of buildings, walls and fences shall not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.
- Vehicular Access. Proposed vehicular access points shall be adequate in width, grade, alignment and visibility; not located too near road intersections or places of public assembly; and meet similar safety considerations.
- Sight Distance at Entry and Exit. To the extent feasible, 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.)

- Emergency Vehicle Access. All proposed buildings, structures, equipment and materials shall be readily accessible for fire and police protection.
- Screening. In all zoning districts except Hamlet Mixed Use (HX), the following uses shall be substantially screened from view of pre-existing neighboring residential properties at all seasons of the year by vegetation or by fencing of a design and type approved by the Planning Board: retail gasoline sales, vehicle repair or sales establishments, campgrounds and recreational vehicle parks, mining, industrial uses, and any other use which in the judgement of the Planning Board may have an adverse visual impact upon neighboring properties or the community in general.
- Landscaping. Any proposed use involving the construction of a new building or addition larger than 2500 square feet or any parking area greater than 2500 square feet shall require the approval of a landscaping plan. The landscaping plan shall show the location, type and

size of species to be planted or to be retained on the site. The Planning Board may require that such plan be prepared by a professional architect, engineer, landscaper, or planner.

- G. 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.
- H. Water Quality Protection. Adequate provision shall be made to insure that any leak, spill or other discharge of petroleum based products or other chemical potentially harmful to surface water or groundwater supplies are contained and are prevented from being introduced into such waters. Such potentially harmful materials should be stored on an impervious pavement, and should be enclosed by an impervious dike high enough to contain the volume of liquid kept in the storage area. This provision shall apply within 100 feet of any stream, river, or other water body, or any other area as determined by the Planning Board.
- I. Lighting. Exterior lighting shall be directed down and away from adjoining residential properties and public roads, and shall not constitute a traffic hazard. Lighting shall be shielded from shining into the night-time sky so as to prevent light pollution. High intensity lighting shall be minimized.
- J. Impact upon Historic Resources. Adverse impacts to the integrity of neighboring properties of local, state, or national historic significance shall be minimized. A proposed development shall be designed, to the extent feasible, to harmoniously blend with the historic resource by means of utilizing green space buffers, vegetative or other screening, landscaping, and appropriate building designs and color schemes.
- K. Water supply. If town water is requested by the applicant, it must have approval of the Town Board before a Zoning Permit is issued.
- L. Sewage disposal. On-site disposal systems shall comply with all applicable regulations of the New York State departments of Health and Environmental Conservation, including a minimum 100 foot setback from any well or water supply source and from any stream or surface water body.

## **Section 725 Shoreline Standards**

- A. All construction on any shoreline lot shall be carried out in such manner as to: (1) minimize interference with the natural course of such waterway, (2) avoid erosion of the shoreline, (3) minimize increased runoff of surface water into the waterway, (4) retain shoreline vegetation, and (5) to generally maintain the existing aesthetic and ecological character of the shoreline.
- B. Any paved or otherwise improved parking, loading or service areas within one hundred (100) feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the introduction of chemical pollutants or siltation into the waterway.

## **Section 730 Application for Site Plan Approval**

A. All applications for Site Plan Approval shall consist of the following:

1. Tax map of the parcel.
2. Topographic or contour map of the site.

B. Two copies of a site plan map, 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. Proposed grading and drainage plan.
6. Location, design, type of construction, proposed use and exterior dimensions of all proposed buildings.
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. Provision for handicapped access.
11. Description of the method of sewage disposal and location of the facilities.
12. Identification of water sources; if well, locate.
13. Location, size and design and construction materials of all proposed signs.
14. Location and proposed development of all buffer areas, including existing vegetative cover;
15. Location and design of outdoor lighting facilities.
16. Landscaping plan.
17. Other information as required by the Planning Board.

C. The Planning Board may, at its discretion, require that such site plan be prepared by a professional engineer, land surveyor and/or architect for more complex, costlier, or larger projects.

D. Accompanying data, to include the following as applicable

1. Application form and fee.
2. Name and address of applicant and any professional advisors.
3. Property deed, or authorization of owner if applicant is not the owner of the property.
4. Estimated project construction schedule.
5. Identification of any permits required from other governmental bodies.
6. Short Environmental Assessment Form.
7. Any additional endorsements, certifications or approvals required by the Planning Board.
8. Other information as the Planning Board may reasonably require to assess the proposed project; such as location of fire lanes and hydrants, provisions for pedestrian access, or designation of the amount of building area proposed for use for retail sales or other commercial activity.

## **Section 735 Waiver of Submission Requirements**

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

## **Section 740 Reimbursable Costs**

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. Prior to incurring such costs the Planning Board shall discuss such costs with the applicant.

## **Section 745 Procedure**

Applications for Site Plan Approval shall be processed in the following steps.

- A. Referral to Planning Board. The Enforcement Officer shall refer any application for Site Plan Approval to the Planning Board.
- B. Preliminary Review. The Planning Board shall undertake a preliminary review of an application at its first regularly scheduled monthly meeting after the application is submitted. At the review, the Board shall determine: (a) whether the application is complete, (b) whether a public hearing will be required, and (c) what further action will be necessary to fulfill the requirements of SEQRA (see Part C, below.) If the application is deemed to be incomplete, then the applicant shall be notified in writing of what further information is required.
- C. SEQRA. Pursuant to the New York State Environmental Quality Review Act (SEQRA) the Planning Board in their initial review of an application shall: (1) determine that no further action is necessary to fulfill the requirements of said act, or (2) require that the applicant submit a Full Environmental Assessment Form (EAF) for their review. Upon review of a Full EAF the Planning Board shall issue either a negative declaration, a conditioned negative declaration, or a positive declaration. If a positive declaration is issued, the Board shall require that an Environmental Impact Statement be prepared pursuant to SEQRA.
- D. Optional Hearing. The Planning Board may conduct a public hearing on the Site Plan Application as it deems desirable. The public hearing shall be conducted within sixty-two (62) days of the receipt of a complete application. Notice of said hearing shall be given to the applicant at least ten (10) before the hearing, and shall be printed in a newspaper of general circulation in the town at least ten (10) days prior to the hearing. Certain actions require that notice of the hearing be mailed to the Essex County Planning Board ten (10) days prior to conducting the hearing, as further specified in Section 940 herein.
- E. Decision. The Planning Board shall render its decision to approve, approve with conditions, or deny the application within sixty-two (62) days after the hearing, or within sixty-two (62) days of the receipt of a complete application if no hearing is held, unless an extension is mutually agreed upon.
- F. Record of Decision. Within five (5) business days after such decision is rendered it shall be filed in the Office of the Town Clerk, and a copy shall be mailed to the applicant. The record shall contain any conditions or modifications required by the Planning Board, and if the site plan is disapproved shall state the reasons for disapproval.

## **Section 750 Procedure if Variance is Required**

Should an application require both a variance and Site Plan Approval the Planning Board shall have the authority to approve the site plan, and the Board of Appeals shall have the authority to issue the variance. The applicant must meet all the conditions required in both approvals.

## **ARTICLE 8 VARIANCES AND APPEALS**

### **Section 800 Board of Appeals**

The Board of Appeals shall have the authority to:

1. Review and approve requests for variances.
2. Hear and render a decision on appeals from a decision of the Enforcement Officer
3. Decide any question involving the interpretation of a provision or definition contained in this law.

### **Section 810 Application**

A party may initiate a request for a variance by filing an application with the Board of Appeals using forms supplied by the Board. The applicant shall include a copy of the tax map which shows the property; a map drawn to scale showing existing features and the planned variance; and other drawings or information the Board of Appeals deems necessary.

### **Section 820 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 highway frontage, minimum building setbacks, maximum height of buildings, and maximum size or height of signs.
- B. In making its determination the Board of Appeals 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 consider:
  1. Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance.
  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 the 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.
- C. Any area variance granted shall be the minimum necessary for the applicant to make reasonable use of the property.

### **Section 830 Requirements for Use Variances**

- A. A use variance may be granted to allow land to be used for a purpose which is otherwise not permitted by this law.
- B. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that the zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals each of the following:
  - (1) For each and every permitted use within the zone where the property is located, including uses permitted after Site Plan Approval, the applicant cannot realize a reasonable return, provided that lack of return is substantial and is established 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.
  - (4) That the alleged hardship has not been self-created.
- C. Any use variance granted shall be the minimum necessary to address the unnecessary hardship proven by the applicant.

#### **Section 840 Approval of Variances with Conditions**

In the granting of variances the Board of Appeals shall have the authority to impose such reasonable conditions as are related to the use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

#### **Section 850 Appeals of a Decision by the Enforcement Officer (EO)**

- A. Any appeal from a decision of the EO shall be made within sixty (60) days after the EO files said decision.
- B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the EO 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.

#### **Section 860 Review and Approval Procedure**

Upon receipt of a complete application the Board of Appeals shall:

- (1) Schedule a public hearing within sixty-two (62) days and provide notice of such hearing by publication in a newspaper of general circulation in the town at least ten (10) days prior to the date thereof.
- (2) Refer the application to the Essex County Planning Board, if required, at least five (5) days prior to the hearing. (See Section 940 herein.)
- (3) The Board of Appeals shall conduct a public hearing on the matter.
- (4) Within sixty-two (62) days of the final public hearing, the Board of Appeals shall render a decision. Said time period may be extended by mutual consent of the applicant and the Board.
- (5) All decisions shall be in writing, shall be filed with the Town Clerk within five (5) business days of the decision, and a copy thereof shall be provided to the applicant.

## ARTICLE 9 ADMINISTRATION

### Section 900 Enforcement Officer

The duty of administering and enforcing the provisions of this Law are hereby conferred upon the Enforcement Officer (EO). He shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

### Section 905 Duties of the Enforcement Officer

- A. Administer the Zoning Law. The EO shall review all applications for building permits and, if the minimum requirements of this law are met, he shall issue a permit. If the applicants plans do not meet the Zoning requirements, he must deny the permit. The EO may not use discretionary judgment. He must enforce the "Letter of the Law".
- B. Referral to the Board of Appeals. An applicant, after being denied a building permit, may appeal the EO's findings to the Board of Appeals for an interpretation or variance. Should an appeal be requested the EO shall notify the Board of Appeals of the request and forward all necessary supporting information.
- C. Referral to Town Planning Board. The EO shall forward any application for Site Plan Approval to the Planning Board along with all supporting information.
- D. Site Zoning Violations. For any plans, construction, building, use or premise found in violation of this Law, the EO shall order the responsible party, in writing, to remedy the conditions. The EO shall have the authority to secure from the Town Justice a stop order to restrain the continuance of the violation.
- E. Report to Town Board. The EO shall issue periodic reports to the Town Board describing and enumerating actions taken and permits issued.
- F. Public Record. The EO shall file all permit actions, including all correspondence with regard to violations, with the Town Clerk.

### Section 910 Planning Board

- A. The Town Board may select a chairperson of the Planning Board, or on failure to do so, the Planning Board shall elect a chairperson from its own members.
- B. The Planning Board may adopt rules or bylaws for its operation.
- C. The Town Board may provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.

### Section 915 Powers and Duties of Planning Board

The Planning Board shall have the following powers and duties with respect to this law:

- A. Review and approval of Site Plans in accordance with the standards and procedures set forth herein.
- B. Submittal of an advisory opinion to the Town Board for any proposed amendment to this law.
- C. Submittal of an advisory opinion to the Town Board in any matter relating to planning and zoning.

### Section 920 Meetings of the Planning Board

- A. Meetings shall be held at such meeting times as the Board may determine, or at the call of the chairperson.
- B. A quorum shall consist of a majority of its members, but any motion or resolution, including any decision to approve or disapprove a Site Plan, shall require for its adoption an affirmative vote of at least a majority of the entire membership.
- C. The Board shall keep minutes of its proceedings.
- D. All meetings and hearings of the Board shall be public. Every decision or determination shall be in writing, shall be filed in the office of the Town Clerk.

### **Section 925 Board of Appeals**

- A. The Town Board shall appoint a chairperson of the Board of Appeals. In the absence of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson.
- B. The Board of Appeals may adopt rules or bylaws for its operation.
- C. The Town Board may provide an appropriation to the Board of Appeals to cover necessary expenses including the means for the Board to maintain a written record of its meetings and public hearings.

### **Section 930 Powers and Duties of Board of Appeals**

The Board of Appeals shall have the following powers and duties with respect to this law:

- A. Review and approval of variances to this law.
- B. Hearing and rendering a decision on appeals to a decision made by the Enforcement Officer.
- C. Upon appeal from a decision by the Enforcement Officer, decide any question involving interpretation of any provision of this law, or the location of any district boundary line on the Zoning district map.

### **Section 935 Meetings of the Board of Appeals**

- A. The Board of Appeals shall hold meetings at the call of the chairperson, or at the request of a majority of its full membership.
- B. The presence of a majority of its full membership shall constitute a quorum for the conduct of business before the Board. A concurring vote of a majority of its full membership shall be necessary to act on any application for variance or appeal.
- C. All votes of the Board of Appeals shall be taken by roll call.
- D. A member of the Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- E. The Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from its own attorney, and may request its own attorney to attend its meetings.
- F. The Board of Appeals may require the Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- G. All meetings of the Board of Appeals shall be open to the public.
- H. The Board of Appeals shall keep minutes of all of its meetings. The Town Board shall provide a secretary for the Board of Appeals.
- I. The Board of Appeals shall make factual record of all its proceedings.
- J. Every decision or determination of the Board of Appeals shall be in writing, and shall be filed in the office of the Town Clerk.

### **Section 940 Referral to the County Planning Board**



- A. State law requires that certain variances, Site Plan Approvals, or zoning amendment actions be referred to the Essex County Planning Board for their review prior to taking final action on the matter. Such actions are those which affect real property within 500 feet of any of the following:
1. A State or County highway.
  2. State or County land where a public building or institution is located.
  3. A State or County owned park or recreation area.
  4. The Town of Minerva boundary.
- 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 945 Amendments**

- 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 Essex County Planning Board as described in Section 940 herein. 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 500 feet of the Town of Minerva boundaries, and to any state park commission whose property lies within the Town or within 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 or immediately adjacent to the area affected by such amendment, the Town Board must have a favorable vote of three-fourths of its membership in order to adopt the amendment.

## **ARTICLE 10 ENFORCEMENT**

### **Section 1000 Penalties**

Any person owning, controlling or managing any such building, structure, land or premises wherein or whereon there shall be placed on or there exists or is practiced or maintained anything or any use in 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) 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 or corporation, the principal executive officer, partner, agency or manager may be considered to be the "person" for the purpose of this section.

## **Section 1010 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 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 a penalty or fine assessed hereunder.

## **Section 1020 Stop Work Order.**

- A. The Town Board for the Town of Minerva herein grants the 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 herein the violation has occurred.
- B. 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.

## **Section 1030 Appeal**

Any person found to be in violation as described above may appeal the notice of violation to the 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 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 Board of Appeals to the date of a determination by the Board of Appeals.

## **Section 1040 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 this article.

## **Section 1050 Actions for Injunction**

The town may obtain an action to restrain by injunction any violation of this ordinance or any failure to comply with any of the provisions of this ordinance.

## **Section 1060 Removal of Violations**

Any building or structure erected, or any use conducted without a Zoning Permit or certificate of compliance, where required, or not in conformity with the provisions of this ordinance may be removed, closed, or halted at once by the Enforcement Officer with issuance of a stop order, with the assistance, if deemed necessary, of any appropriate Town Officer or employee. Any costs involved with removal (if deemed necessary) shall be paid by the owner of the property that is not in compliance.

## **Section 1070 Steps in the Enforcement Process**

The following procedures may be followed in order to enforce this law.

1. Notice of Violation. The Enforcement Officer (EO) may serve a Notice of Violation on the landowner to inform him that a violation has occurred.
2. Stop Work Notice. The EO may serve a Stop Work Order requiring that construction or other activity in violation must stop.
3. Voluntary Compliance. Voluntary compliance may be sought.
4. Injunction. The Town may seek a court order requiring that the activity in violation cease.
5. Criminal Justice Proceedings. The Town may file an Information and Complaint to the local court to initiate court action.

## SCHEDULE A PERMITTED USE CHART

p = Permitted use

S = Permitted after Site Plan Approval

blank = not permitted

### Residential Uses

Single-family dwelling
Two-family dwelling
Mobile home not in mobile home park
Multiple-family dwelling
Senior citizen housing development
Assisted living facility for seniors
Residential cluster development
Mobile home park
Residential accessory structures
Recreational vehicle used as seasonal residence

Zones					
HR	HX	MI	LI	RU	RM
p	p	p	p	p	p
p	p	p	p	p	p
p	p	p	p	p	p
S	S	S	S		
S	S	S	S		
S	S	S	S	S	S
S	S	S	S	S	S
Not permitted in any zone					
p	p	p	p	p	p
p	p	p	p	p	p

### General Uses

Agricultural uses and structures, including horse farms
Forestry use, logging, forestry use structure
Game preserves and private parks
Golf course, public or private, golf driving range
Group camp
Hunting and fishing cabins or other private club structures
Logging staging area
Open space recreation use
Public or semi-public buildings or grounds
Public utility uses
Wind power generating facility, small

HR	HX	MI	LI	RU	RM
p	p	p	p	p	p
p	p	p	p	p	p
S	S	S	S	S	S
S	S	S	S	S	S
S	S	S	S	S	S
p	p	p	p	p	p
	S	S	S	S	S
S	S	S	S	S	S
S	S	S	S	S	
S	S	S	S	S	S
S	S	S	S	S	S

### Commercial and Industrial Uses

Adult entertainment establishment
Animal hospital, veterinarian
Automobile, vehicle, or lawn and garden equipment sales
Bed and Breakfast establishment
Business office
Commercial riding stables
Construction or well-drilling business
Gas station, convenience store with gas pumps
Fuel distribution business
Home based business with vehicles or equipment
Home based manufacturing
Home occupations
Junkyard
Kennel
Light industry

HR	HX	MI	LI	RU	RM
				S	
		S	S	S	
	S		S		
S	S	S	S	S	
S	S	S	S	S	
S	S	S	S	S	
		S	S	S	
	S		S		
		S	S	S	
	S		S	S	
S	S	S	S	S	S
p	p	p	p	p	p
			S	S	
		S	S	S	
	S		S	S	

**SCHEDULE A (CONTINUED)**

Mining  
 Motor vehicle repair shop  
 Nursery, florist, greenhouse  
 Nursing home  
 Portable sawmill (a)  
 Recreational vehicle park, campground  
 Recreational vehicle storage area  
 Research and testing laboratory  
 Restaurant, café, eating establishment  
 Retail center less than 4000 s.f. in floor area  
 Sawmills, chipping mills and similar wood using facilities  
 Small commercial  
 Tavern, bar, night club  
 Telecommunications facility or tower  
 Tourist accommodations ,motels, cabins, boarding houses  
 Trucking business  
 Wind power generating facility, large  
 Non-listed commercial or industrial use similar to those allowed in the zone, as determined by the Planning Board

HR	HX	MI	LI	RU	RM
			S	S	S
	S		S	S	
S	S	S	S	S	S
S	S	S	S	S	
S	S	S	S	S	S
	S	S	S	S	S
	S		S	S	
S	S	S	S	S	
	S	S	S		
				S	S
S	S	S	S	S	
	S		S	S	
			S	S	
	S		S	S	

**Uses Not Permitted in any Zone**

Warehousing  
 Vehicular race track (auto, motorcycle)  
 Waste disposal area

HR	HX	MI	LI	RU	RM
					Not permitted in any zone
					Not permitted in any zone
					Not permitted in any zone

(a) A zoning permit is needed only for portable sawmills in use on any one property 31 or more days within any consecutive 12 month period. (See Section 200 (C) (10)).

## SCHEDULE B DIMENSIONAL REQUIREMENTS

### RESIDENTIAL USES

	Land Use District				
	HR, HX	MI	LI	RU	RM
Minimum Lot size, sq. ft.	20,000	none	none	none	none
Minimum frontage on public or private roads ft.					
On-lot water and sewer	100	150	200	350	600
Public water	100	125	175	250	400
Minimum structure setback					
From public or private roads (a)	60	75	75	100	100
Side yard setback (b)	20	30	30	50	50
Rear yard setback (b)	10	20	20	20	50
Minimum shoreline frontage, ft. (c)	50	100	125	150	200
Minimum structure setback from shoreline, ft. (c)	50	50	75	75	100
Maximum structure height, ft.	35	35	35	35	35

### NON-RESIDENTIAL USES

	Land Use District				
	HR, HX	MI	LI	RU	RM
Minimum Lot size, sq. ft.	20,000 (d)	none	none	none	none
Minimum frontage on public or private roads, ft.					
On-lot water and sewer	100	150	200	350	600
Public water	100	125	175	250	400
Minimum structure setback					
From public or private roads (a)	60	75	75	100	100
Side yard setback (b)	20	30	40	50	50
Rear yard setback (b)	10	20	20	20	50
Minimum shoreline frontage, ft. (c)	50	100	125	150	200
Minimum structure setback from shoreline, ft. (c)	50	50	75	75	100
Maximum structure height, ft.	35	35	35	35	35

HR = Hamlet Residential  
 HX = Hamlet Mixed Use  
 MI = Moderate Intensity  
 LI = Low Intensity  
 RU = Rural Use  
 RM = Resource Management

(a) Measured from center line of road.  
 (b) Measured from lot line.  
 (c) Applies to shoreline lots only.  
 (d) Some uses require larger lots. See Section 435 and Article 6.)

All building lots shall have the minimum road frontage required by this schedule, excepting (a) lots within an approved residential cluster development, and (b) interior lots as defined herein.