

Chapter 155

ZONING

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Zoning Map

[HISTORY: Adopted by the Town Board of the Town of Conesus 5-4-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 59.
Docks, piers, wharves and moorings — See Ch. 74.

Flood damage prevention — See Ch. 87.
Subdivision of land — See Ch. 134.

**ARTICLE I
General Provisions**

§ 155-1. Title.

This chapter shall be known, cited, and referred to as the "Zoning Ordinance for the Town of Conesus."

§ 155-2. Intent.

The Zoning Ordinance of the Town of Conesus is an ordinance to protect the public health, safety, morals, and general welfare of the residents. This is to be accomplished by seeking:

- A. To prevent the overcrowding of land, thereby insuring proper living and working conditions and preventing the development of blight.
- B. To establish adequate standards for the preservation of light, air, and open space.

- C. To provide for the provisions of adequate transportation and other public requirements and services.
- D. To zone all properties with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.
- E. To protect residential, business, commercial, and industrial areas alike from harmful encroachment from incompatible use and to be sure that land allocated to proper use is not usurped by other inappropriate uses.
- F. To avoid the inappropriate development of lands.
- G. To define the powers and duties of the administration and law enforcement bodies.
- H. To prescribe prevention of any violation of this chapter or of any amendments thereto.

§ 155-3. Definitions and word use.

- A. Words in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular.
- B. The word "shall" is always mandatory.
- C. The word "property" includes all other structures of every kind regardless of similarity to building; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- D. For the purpose of this chapter, certain terms and words used herein shall be interpreted or defined as follows:

ACCESSORY BUILDING or USE — Any building or use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses of packing, treating, or storing the produce; provided, however, that operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

ALTERATION — Any change in the supporting members of a building by alteration or addition which affects the building front line, the building side line, the building rear line, or the height of the building or structure. Any alteration or repair whereby a building or structure is adapted to another or different use having different restrictions or requirements; or the moving from one location or position to another under the provisions hereof shall be deemed a structural alteration.

ANIMAL HOSPITAL — Any building or portion thereof designed or used for the care, observation, or treatment of domestic animals.

AREA, NET SITE — The gross area of a site exclusive of public rights-of-way.

AUTO COURT — see "motel."

AUTO LAUNDRY — A building, or portion thereof, containing facilities for washing more than two automobiles, using production line methods with a chain conveyer, blower, steam cleaning device, or other mechanical devices, and shall include a manually operated auto laundry when the operation is equivalent in intensity to a mechanized auto laundry.

BASEMENT — A portion of a building located partly underground, but having 3 1/2 feet or more of its floor-to-ceiling height above the average grade of the adjoining ground.

BED-AND-BREAKFAST ESTABLISHMENT — A private, owner-occupied residential dwelling that makes available three or fewer sleeping units for overnight accommodations to transient paying guests, with or without inclusion of one morning meal per paying guest as part of the accommodations provided.

BED-AND-BREAKFAST INN — A commercial enterprise as part of a private residence which provides short-term (no more than seven days) lodging and breakfast to overnight guests for a fee. The structure may contain no more than six sleeping units. Sleeping units shall have no provision for cooking.

BILLBOARD — A sign which directs attention to a business, commodity, or service or entertainment, not exclusively related to the premises to which the sign is affixed.

BUILDING — Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and mean height between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING, PRINCIPAL — A nonaccessory building in which the principal use of the lot on which it is located is conducted.

CAMP — Any one or more of the following other than a hospital, place of detention, or school instruction:

- (1) Type 1. Any area of land or water on which are located two or more cabins, tents, shelters, or houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes regardless of whether such structures or other accommodations actually are occupied or otherwise.
- (2) Type 2. Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes and any of the foregoing establishments whether or not conducted for profit or whether or not occupied by adults or by children either as individuals or groups.

CAMPSITE (INDIVIDUAL) — A parcel of ground on which may be located a cabin, tent, or camping trailer no greater than 250 feet in area. Any structure on a site must be built according to other existing codes or sections of this chapter. No tent, cabin, or trailer may be occupied more than 100 days in succession in any six-month period, nor may any tent, cabin, or trailer serve as the permanent residence for any individual. No tent or trailer may remain on the site continuously during the months of November through February unless within a completely enclosed building.

CELLAR — A story partly underground having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining permissible number of stories and shall not be used for living or apartment purposes.

CERTIFICATE OF OCCUPANCY — Written acknowledgment from the Code Enforcement Officer or designee that the construction of a building meets the Uniform Fire Prevention Code for occupancy. ¹

CLUB or LODGE — An organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, provided there are not conducted any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club.

DISTRICT — A portion of the territory of the Town of Conesus within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

DWELLING — A building, or portion thereof, but not a house trailer, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels, or lodging houses.

DWELLING, SINGLE-FAMILY — A building containing one dwelling unit only.

DWELLING, TWO-FAMILY — A building containing two dwelling units.

DWELLING, MULTIPLE-FAMILY — A building, or portion thereof, containing three or more dwelling units.

FAMILY — Consists of one or more persons each related to the other by blood, marriage or adoption, who are living together in a single dwelling and maintaining a common household. A family includes any domestic servants, foster children, and not more than two roomers residing with said family.

GASOLINE SERVICE STATION — Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities lubrication, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means.

1. Editor's Note: See Ch. 59, Building Construction and Fire Prevention.

HOME OCCUPATION — Any occupation carried on by a member of the immediate family residing in the premises, which meets all of the following:

- (1) That the occupation is clearly incidental and secondary to the principal use of the dwelling purposes.
- (2) That only members of the immediate family residing on the premises may be employed plus not more than two other employees.
- (3) That no stock-in-trade is kept or commodities sold, other than those made on the premises and that there is no sign, other than a nameplate which is attached to the building, is not illuminated, and is not more than one square foot in area.

HOTEL — An establishment which is open to transient guests, in contradistinction to a boardinghouse or lodging house, and is commonly known as a "hotel" in the community in which it is located; and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and secretarial desk service, the use and upkeep of furniture, and bellboy service.

JUNKYARD — An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes an auto wrecking yard including any place where there is storage or deposit of two or more unregistered motor vehicles which are no longer intended for or are in condition for legal use. It does not include uses established entirely within enclosed buildings.

KENNEL — Any premises on which dogs or cats are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.

LODGING HOUSE — A residential building, or portion thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals or both are provided for compensation on a weekly or monthly basis.

LOT — A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this chapter.

LOT DEPTH — A mean horizontal distance between the front lot line and the rear line of a lot, measured within the lot boundaries.

LOT LINE, FRONT — That boundary of the lot which is along an existing or dedicated public street. However, in no instance will the front lot line be closer than 25 feet to the center of the road.

LOT LINE, REAR — That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line.

LOT LINE, SIDE — Any boundary of a lot which is not a front lot line or a rear lot line.

MOBILE HOME — A structure built on a permanent steel chassis and designed for transportation in one or two parts (i.e., double-wide) after fabrication, to a site where it is to be occupied complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on skids, rollers, blocks, jacks, or permanent foundation, and connection to utilities. Transportation may be on its own wheels, or on a flatbed or other trailer. This structure is intended for single-family occupancy. **[Added 7-21-1987 by L.L. No. 2-1987]**

MODULAR HOME — A dwelling constructed from two or more conventionally built factory fabricated transportable building units which are designed to be permanently incorporated with similar units at a building site on a permanent foundation. Such dwelling shall meet or exceed New York State Uniform Fire and Building Code standards for single-family, two-family or multiple-family dwellings, and contain a New York State inspection seal, as appropriate to the intended use. (NOTE: Modular homes, as defined above, would be allowed wherever residences are allowed and would not have to be specifically mentioned as permitted uses for any district.) **[Added 7-21-1987 by L.L. No. 2-1987]**

MOTEL — A building or a group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designed as tourist courts, motor lodges, tourist cabins, auto courts, and by similar terms.

NONCONFORMING BUILDING OR STRUCTURE — Any building or structure lawfully existing at the time of adoption of this chapter or revision or amendment hereto which does not conform with the minimum width, depth, and area dimensions specified for the district in which said building or structure is located by reason of such adoption, revisions or amendment. ²

NONCONFORMING USE — Any use of land, buildings, or structures lawfully existing at the time of the enactment of this chapter or revision or amendment hereto which does not conform to the regulations of the district or zone in which it is situated by reason of such enactment, revision or amendment. ³

REST HOME OR NURSING HOME — A private home for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury.

ROAD RIGHT-OF-WAY — For purposes of this chapter, the minimum width roadway is defined as 50 feet in cases where the actual boundaries of the roadway are indiscernible. An apparent center line will be taken as the middle of the traveled way.

ROADSIDE STAND — A structure for the display and sale of agricultural products, with no space for customers within the structure itself.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

SETBACK — The horizontal distance from lot line to building thereon on sides and back and from the highway boundary line to building on the front. Measurement in each case being made in feet and at right angles to the lot line.

SIGN — A name, identification, description, display, or illustration which is affixed to or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.

SIGN, FLASHING — Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this chapter, any moving, illuminated sign shall be considered a flashing sign.

SIGN, GROUND — A freestanding sign attached to the ground by means of one or more poles or standards.

SIGN, PROJECTING — A freestanding sign which is attached to a wall of a building and projects more than 15 inches beyond such wall.

SIGN, WALL — A sign which is attached to a wall of a building and projects not more than 15 inches from such wall.

SLEEPING UNIT — A separate room in which a bed of any type, including folding or convertible, is provided. Such rooms may or may not have a private bathroom. A sleeping unit is primarily intended for temporary use by tourists and transients.

STORY — That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this chapter, a basement shall be counted as a story when more than 1/2 of such basement height is above the established curb level or above the finished lot grade level where curb level has not been established. A mezzanine shall be deemed a full story where it covers more than 50% of the area of the ground story.

STRUCTURE — Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

TOURIST HOME — A dwelling in which overnight accommodations are provided for transient uses for compensation.

TRAILER, TRAVEL OR VACATION RV — A movable living unit equipped with a chassis, which is used or intended to be used for residential, living, sleeping, or commercial purposes, and intended for seasonal or recreational use. [Added 7-21-1987 by L.L. No. 2-1987]

TRAILER PARK or MOBILE HOME PARK — A tract of land where two or more trailers or mobile homes are parked.

USE — The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

YARD, FRONT — An open unoccupied space on the same lot with the building between the front line of the principal building and the front line of the lot and extending the full width of the lot.

YARD, REAR — An open unoccupied space on the same lot with the building between the rear line of the principal building and the rear line of the lot and extending the full width of the lot.

YARD, SIDE — An open unoccupied space on the same lot with the principal building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

§ 155-4. Interpretation.

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safe morals, and general welfare.
- B. Where the conditions imposed by any provision of this chapter, upon the use of land or buildings or upon the bulk of buildings, are either more restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

§ 155-5. Scope of regulations.

- A. All buildings erected hereafter, all uses of land or buildings established, and all structural alterations or relocation of existing buildings occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such buildings, uses or land shall be located.
- B. A conditional use permit shall be deemed to authorize only one particular conditional use and shall expire if the conditional use shall cease for more than six months for any reason.⁴

4. Editor's Note: See §§ 155-17 and Art. VIII of this chapter.

ARTICLE II
Nonconforming Buildings, Structures, and Uses

§ 155-6. Existing uses.

The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform with the provisions of this chapter.

§ 155-7. Enlargement or reconstruction.

A nonconforming use shall not be enlarged and the buildings or premises shall not be reconstructed or structurally altered, without the issuance of a permit by the Zoning Board of Appeals, and unless the altered or enlarged portion shall be changed to conforming use, and once so changed, shall not be changed back to a nonconforming use.

§ 155-8. Structures destroyed by fire or other calamity.

Any structure destroyed by fire or other calamity may be restored within 12 months of such destruction and the former use continued, provided that the reconstruction shall not exceed the dimensions of the destroyed property.

§ 155-9. Replacement to restore safety.

Nothing in this chapter shall prevent the replacement of any structural member to insure the safety of a building.

§ 155-10. Discontinuance.

Whenever a nonconforming use has been discontinued for a period of one year, the use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.

§ 155-11. Replacement of nonconforming mobile homes. [Added 7-21-1987 by L.L. No. 2-1987]

Any mobile home that replaces a nonconforming mobile home must carry a 1976 or later Federal HUD data plate and conform to New York State Uniform Fire and Building Code standards (as stated in Article III, 12.20, 12.21, 12.22, and 12.23 of those standards). The skirting must be installed within 60 days with wood, cement, metal, rigid plastic, or factory-approved materials. Each entrance should have proper stairs and footing in accordance with New York State Uniform Fire and Building Code standards (as stated in Article III of those standards).

ARTICLE III
Administration and Enforcement

§ 155-12. Code Enforcement Officer.

The primary responsibility for enforcement and administration of this chapter is vested with the Town Code Enforcement Officer or designee. The Town Code Enforcement Officer or designee shall be appointed by the Town Board for a term of one year and at a compensation to be fixed by the Board. He shall not be removed from office except for cause upon hearing of charge before the Town Board. In furtherance of such authority, the Town Code Enforcement Officer or designee shall:

- A. Issue all building certificates and make and maintain records thereof.
- B. Issue all certificates of occupancy and make and maintain records thereof.
- C. Conduct continual inspections of buildings, structures, and uses of land to insure compliance of this chapter.
- D. Forward to the Town Planning Board and Board of Zoning Appeals applications for amendments to this chapter, applications for conditional uses, applications for variances or other matters on which these Boards are required to pass.

§ 155-13. Building permits.

- A. All applications for building permits shall be made to the Town Code Enforcement Officer or designee. The permit will be valid for one year from date of issuance.
- B. No building structure shall be erected, demolished, or moved to other premises or structurally altered until a permit therefor has been approved by the Code Enforcement Officer or designee. This permit shall be accompanied by a completed and approved highway request form. Accompanying each application for a building permit to be filed in the office of the Code Enforcement Officer or designee, there shall be a plan showing the dimensions of the proposed structure, its location on the lot upon which the structural alterations are to be made, and such other information as may be necessary to determine compliance with, and provide for, the enforcement of this chapter.
- C. A mobile home may be allowed on a single-family building site during building construction provided that the following conditions are met: The applicant must hold an approved zoning and building permit to temporarily place a mobile home on the building site during construction of the single-family dwelling, provided that the mobile home has a valid HUD sticker, meets county health requirements governing sewage and water, meets all local zoning and building codes, and is removed within 30 days of the issuance of the certificate of occupancy or expiration of the building permit for the single-family dwelling, whichever comes first. In no case will the mobile home be allowed on the premises for more than three years from the date of issuance of the original single-family dwelling building permit. [Amended 1-21-1992 by L.L. No. 2-1992; 2-18-1992 by L.L. No. 5-1992]

- D. Notwithstanding the foregoing provisions, no building permit shall be required for small agricultural structures of 400 square feet ground area or less when located on a farm. This exception, however, does not apply to garages.
- E. Every application for a building permit shall be accompanied by a fee and shall be paid to the Town Code Enforcement Officer or designee. The standard Schedule of Fees shall be established by a resolution of the Town Board. No fee shall be less than \$1.

§ 155-14. Occupancy permits.

- A. All applications for an occupancy permit shall be made to the Town Code Enforcement Officer or designee. Every application for a certificate of occupancy shall state the use for which the premises is intended.
- B. No land shall be occupied or used, nor shall the use of land be changed, and no building erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Code Enforcement Officer or designee stating that the building and proposed use thereof, or the use or changed use of lands, complies with the provisions of this chapter. It shall be the duty of the Code Enforcement Officer or designee to issue or deny such a certificate of occupancy within 10 days after written application therefor has been filed in the office of the Code Enforcement Officer or designee.

§ 155-15. Appeals.

- A. Any person aggrieved by the granting or the refusal of any permit or by any order, decision, or determination of the Town Code Enforcement Officer or designee or other administrative official charged with the enforcement of this chapter may appeal to the Board of Appeals within 60 days of the filing of any determination of the administrative official. Notice of this appeal shall be made in writing on forms provided in the Town Clerk's office and shall be filed with the Town Clerk, who will forward the notice to the Board of Appeals. Notice will also be served upon the official from whose order or decision the appeal is taken. Such notice of appeal shall specify the order, ruling, decision, or determination from which the appeal is taken. Such appeal shall be taken, held, and determined in accordance with the provisions of the Town Law and the rules of the Board of Appeals. A fee as set forth in the Schedule of Fees shall be paid to the Town Clerk at the time of the filing of this appeal.⁵
- B. Appeals for the granting of a variance or the modification of any of the provisions of this chapter shall be filed with the Town Code Enforcement Officer or designee on forms provided. Such appeals shall be accompanied with sufficient documents, plans, maps, and information for proper review by the Board of Appeals. Appeals for the granting of a variance or modification for any of the provisions of this chapter shall be referred to the Town Planning Board for review and comment and to the Board of Appeals prior to action by the Board of Appeals. The Town Planning Board must report on such referrals within 30 days of receipt. Failure to do so constitutes an affirmative response.

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1. General Provisions, Art. I).

§ 155-16. Amendments.

- A. The Town Board may from time to time on its own motion or petition of any interested person or organization, or on recommendation from the Planning Board, amend, supplement, change, modify, or repeal this chapter pursuant to the Town Law applicable thereto. Every such proposed amendment is referred to the Town Planning Board for a report prior to the public hearing thereon. The Town Planning Board must report back within 30 days of the receipt of such referral. Failure to do so constitutes an affirmative response.
- B. An application for an amendment shall be filed with the Town Code Enforcement Officer or designee on forms provided, and accompanied by such information necessary to properly evaluate the application.
- C. Such application shall be forwarded to the Town Planning Board for review and comment, and also forwarded to the Town Board.
- D. A fee as set forth in the Schedule of Fees⁶ shall be paid to the Town Code Enforcement Officer or designee when filing an application for an amendment.⁷

§ 155-17. Conditional use permits.

- A. Categories of use; application and approval procedure.⁸
 - (1) The development and execution of this chapter is based upon the division of the Town into districts within which districts the use of land and buildings are substantially uniform. It is recognized, however, that there are certain uses which because of their unique characteristics cannot be properly classified in any particular district or districts without consideration of the impact of such uses on neighboring land and the particular use and location. Such conditional uses fall into two categories:
 - (a) Uses publicly operated or traditionally affected with the public interest.
 - (b) Uses entirely private in character, but unusual in the nature that their operation may give rise to unique problems with respect to their impact on neighboring property or public facilities.
 - (2) An application for any of the conditional uses permitted in Article VIII will be filed in the Town Clerk's office. A fee as set forth in the Schedule of Fees shall be paid to the Town Clerk at the time of filing. Such application shall be made on forms provided or shall consist of sufficient information to properly identify the property, the proposed use, and impact of the use on the adjacent areas. The Town Clerk will forward the application to the Board. The Town Planning Board will make a review and recommendation to the Board of Appeals within 45 days of the

6. Editor's Note: The Schedule of Fees is on file in the Clerk's office.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

filing of such application. The Board of Appeals shall review conditional use applications in accordance with the procedure set forth in Town Law § 274-b.

- (3) If the special permit is granted, the decision of the Board shall direct the Code Enforcement Officer or designee to issue a building permit or certificate of occupancy as may be appropriate in conformity with the decision, upon payment of the required fee.
 - (4) The decision of the Board of Appeals should be accompanied by a reason for making the decision.
- B. Standards. The following findings shall be used as guidelines in acting upon conditional use applications:
- (1) That the establishment, maintenance, or operation of the proposed conditional use will not be detrimental to or dangerous to the public health, safety morals, comfort, or general welfare.
 - (2) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity.
 - (3) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property.
 - (4) That adequate utilities, access roads, drainage, or necessary facilities have been or will be provided.
 - (5) That adequate measures have been or will be taken to provide safe ingress and egress so as to minimize traffic congestion on public streets.
 - (6) That the conditional use shall also conform to other applicable regulations and other conditions as set forth by the Board of Appeals.

§ 155-18. Variances.⁹

The Board of Appeals is authorized, upon appeal in specific cases, to issue use variances and area variances, as defined in § 267 of the Town Law, subject to the requirements set forth in § 267-b of the Town Law.

§ 155-19. Duration of conditional use permits and variances.

- A. After a conditional use permit or variance has been granted and the decision of the Board of Appeals has been duly filed, the applicant shall be entitled to a building permit or certificate of occupancy, as may be appropriate, provided that application is made within one year from the date when the decision by the Board or by court review becomes final. If such application is not made within the time limit, such special permit or variance shall become null and void and of no effect, and thereafter no building permit or

⁹ Editor's Note: Added at time of adoption of Code (see Ch. 1. General Provisions, Art. I).

certificate of occupancy shall be issued to the applicant pursuant to such special permit or variance.

- B. After a building permit or certificate of occupancy has been issued, the same shall become null and void unless work is commenced within one year from the date of issue of the permit, and no further permit of any kind shall be issued pursuant to the original grant of authority by the Zoning Board of Appeals.
- C. The Board of Appeals, for cause shown, upon written application made prior to the expiration of the time limit may extend the time within which a building permit or certificate of occupancy may be issued or within which work may be commenced.
- D. Failure to comply with any terms or conditions upon which a conditional use permit is granted may result in the revocation of such permit by the Board of Appeals. However, such revocation shall not be made without prior notification; the holder of the conditional use permit may within 30 days of the receipt of such notification request a hearing on such matter.

§ 155-20. Penalties for offenses.

- A. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.¹⁰
- B. Wherein a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer or designee who shall properly record such complaint and immediately investigate and report thereon.

**ARTICLE IV
Site Plan Approval**

§ 155-21. Approval of site plan by Planning Board required; exceptions.

Prior to issuing a building permit for the construction of a building on a lot in any district, the Code Enforcement Officer or designee shall refer the site plan of such lot to the Planning Board for its review and approval, except for:

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- A. One- or two-family dwellings.
- B. Farm buildings used for the housing of agricultural equipment, produce, livestock, or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm. (The term "farm building" shall not include farm dwelling.)
- C. Garages, defined as a secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no business or service for profit are carried on.

§ 155-22. Application for preliminary site plan approval.

Any preliminary application for a site plan approval shall be made in writing to the Code Enforcement Officer or designee, and shall be accompanied by the following information:

- A. An area map showing the applicant's entire holding: that portion of the applicant's property under consideration and all properties, subdivisions, streets and easements within 500 feet of applicant's property.
- B. Grades which exceed 3% or portions of the site which have a moderate to high susceptibility to flooding and ponding, to be shown on the area map.
- C. A preliminary site plan which shall include the following information:
 - (1) Title of drawing, including name and address of applicant.
 - (2) North point, scale, and date.
 - (3) Boundaries of the property plotted to scale.
 - (4) Existing watercourses.
 - (5) A site plan showing:
 - (a) Location, proposed use and height of all buildings;
 - (b) Location of all parking and truck loading areas, with access and egress drives thereto;
 - (c) Location of outdoor storage, if any;
 - (d) Location of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
 - (e) Description of method of sewage disposal and location of such facilities;
 - (f) Location and size of all signs;
 - (g) Location and proposed development of buffer areas;
 - (h) Location and design of lighting facilities;

- (i) The amount of building area proposed for retail sales, if any; and
 - (j) Description of method of securing water.
- (6) Require base flood elevation data for any proposed structure in a floodplain area.

§ 155-23. Factors for consideration.

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

- A. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, and traffic controls.
- B. Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic, and pedestrian convenience.
- C. Location, arrangement, appearance, and sufficiency of off-street parking and loading.
- D. Location, arrangement, size, and design of buildings, utilities and signs.
- E. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise-deterring buffer between these and adjoining lands.
- F. In the case of an apartment house or multiple dwelling, the adequacy of usable open space for playgrounds and informal recreation.
- G. Adequacy of stormwater and sanitary waste disposal facilities.
- H. Adequacy of structures, roadways, and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
- I. Protection of adjacent properties against noise, glare, unsightliness, or other objectionable features.
- J. Adequacy of water supply facilities.

§ 155-24. Consultation with other agencies and officials.

In its review, the Planning Board may consult with the Town Engineer and other Town and county officials, as well as with representatives of federal and state agencies, including, but not limited to, the Soil Conservation Service, the New York State Department of Environmental Conservation. The Planning Board may require that exterior design of all structures be made by or under the direction of a registered architect whose seal shall be affixed to the plans.

§ 155-25. Additional conditions may be required.

The Planning Board may require such additional provisions and conditions that appear necessary for the public health, safety, and general welfare.

§ 155-26. Action on preliminary application.

- A. Within 90 days of the receipt of the application for preliminary site plan approval, the Planning Board shall act on it and shall hold all necessary public hearings as may be required. If no decision is made within said ninety-day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report.
- B. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan, of which conformance with said revisions shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case the Planning Board may recommend further study of the site plan and resubmission of the preliminary site plan after it has been revised or redesigned.

§ 155-27. Application for final detailed site plan approval.

- A. After receiving conditional approval from the Planning Board on a preliminary site plan, and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare its final detailed site plan and submit it to the Planning Board for approval, except that if more than six months has elapsed between the time of the Planning Board's report on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
- B. The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any revisions or other features that may have been recommended by the Planning Board at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

§ 155-28. Action on final detailed site plan application.¹¹

- A. Public hearing and decision on site plans. In the event a public hearing is required, the Planning Board shall conduct a public hearing within 62 days from the day an application is received on any matter referred to it under this article. The Planning Board shall mail notice of said hearing to the applicant at least 10 days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

at least five days prior to the date thereof and shall make a decision on the application within 62 days after such hearing, or after the day the application is received if no hearing has been held. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

- B. Notice to County Planning Board. At least 10 days before such hearing, the Planning Board shall mail notices thereof to the County Planning Board as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law. In the event a public hearing is not required, such proposed action shall be referred before final action is taken thereon.
- C. Compliance with State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law (§ 8-0105 et seq.) and its implementing regulations.
- D. Upon approving an application, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward it to the Code Enforcement Officer or designee who shall then issue a building permit to the applicant, if the project conforms to all other applicable requirements.
- E. Upon disapproving an application, the Planning Board shall so inform the Code Enforcement Officer or designee, and he shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.

ARTICLE V

Establishment of Districts and Map

§ 155-29. Enumeration of districts.

For the purpose of this chapter, the Town of Conesus is hereby divided into the following zoning districts:

Residential Districts

R-1 Expanded Hamlet Residential District

R-2 Single Family Residence District

LR-1 Lake Residential

LR-2 Lake Residential

B Business District

A Agricultural/Rural Residential District

§ 155-30. Zoning Map.

The locations and boundaries of the foregoing districts are hereby established as delineated on the Zoning Map and, together with everything shown thereon and all amendments thereto, shall be as much a part of this chapter as though fully set forth and described herein.¹²

§ 155-31. Interpretation of boundaries.

The following rules shall apply with respect to the boundaries of the various districts as shown on the Zoning Map:

- A. District boundary lines are the center lines of highways, streets, roads, easements, drainageways, or right-of-way lines of railroads; or tract and lot lines, or such lines extended, unless indicated.
- B. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and parallel to a street or highway, the depth of such strip shall be in accordance with the dimensions shown on the Map measured at right angles from the center line of the street, road, or highway.
- C. In cases of irregular zoning district lines, dimensions will be as scaled from the Zoning Map.

ARTICLE VI
General Requirements

§ 155-32. Rules applicable in all districts.

The following have application to all districts except as otherwise provided:

- A. No building shall hereafter be erected or altered to exceed the height, to be of lesser size, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.
- B. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building. In any district a use which is not specifically enumerated under uses permitted or in the conditional use section shall not be granted unless approved by the Zoning Board of Appeals as provided for in this chapter.

§ 155-33. Lot size and yard requirements.

Lot size requirements shall be as specified under each zoning district. In addition, the following regulations shall be complied with.

¹² Editor's Note: The Zoning Map is included at the end of this chapter.

- A. In any residence district on a lot of record on the effective date of this chapter, a single-family dwelling may be established regardless of the size of the lot, provided that all other requirements of this chapter are met.
- B. No building shall be converted so as to conflict with, the lot size requirements of the district in which such building is located.
- C. Where public facilities are unavailable, regardless of other provisions of this chapter, in all classifications and in all districts there shall always be sufficient ground area left unoccupied by a structure or paving for a proper system of sewage disposal and water supply conforming with the standards and requirements of the Livingston County Health Department and New York State Board of Health. Plot plans accompanying building permit applications shall show clearly the proposed sewage disposal system and well locations, if any.
- D. Where, at the time of passage of this chapter, a land ownership is such that it consists of several contiguous lots, each of which may be of less area than the minimum required in the zoning district in which located, it shall be unlawful to dispose of a part of the total holding which is less in area than the minimum required for the zoning district.
- E. Yard requirements shall be as set forth under each zoning district. Front, side, and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to sky, except as otherwise allowed.
- F. In the case where a building is to be built where there is an established front yard and there are existing buildings on one side only, the front yard of the new buildings need be no greater than that of the next adjoining existing building.
- G. When two or more principal uses are located on a lot each shall conform to all area and setback requirements, and buildings must be separated by a minimum ten-foot spacing.

§ 155-34. Keeping of animals.

The raising of livestock, pigeons, and poultry is permitted in any district in the Town in so far as such use does not constitute a nuisance. The keeping of horses requires an area of at least 1/2 acre in addition to that set aside for the principal use of the lot. No horse paddock may be closer than 50 feet to an adjacent dwelling unit.

§ 155-35. Signs.

The following provisions shall apply to all signs:

- A. Signs prohibited in public ways. No sign shall be placed upon, over, or in any public way, provided that this subsection shall not be construed to prohibit the erection or placing of any authorized traffic sign, traffic signal, or other traffic device, or any other signs authorized by law or specifically permitted to project into the public way by this chapter.

- B. Signs not to constitute a public hazard. No sign shall be erected at any location where it may, by reason of its position, shape, color or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, traffic signal, or other traffic device, nor shall any sign make use of the words "STOP," "LOOK," "DANGER," or any other word phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.
- C. Height. No sign shall project higher than one story or 15 feet above curb level, whichever is lower.
- D. In the B Business District, nonflashing signs are permitted under the following conditions:
 - (1) The maximum size of any sign shall be 50 square feet.
 - (2) No sign shall project higher than one story or 15 feet above curb level, whichever is lower.
 - (3) No signs shall be located closer than 10 feet to a side lot line where it abuts a residential district.

§ 155-36. Off-street parking.

In all districts, off-street parking spaces shall be provided as set forth in this section or in other sections of this chapter. Off-street parking will be provided for every building or structure hereafter erected, altered, or extended. Such spaces shall have an area of at least 200 square feet, and shall have adequate and well-designed ingress and egress and shall be located on the same lot as the use to which they are accessory, or within a radius of 300 square feet.

- A. Residential: as specified in §§ 155-37E, 155-39E, 155-40E and 155-47.
- B. Business: one space for every 200 square feet of floor area.
- C. Places of public assembly: one off-street parking place for every four persons, based on maximum seating and/or holding capacity.
- D. Home occupation: Adequate parking space shall be provided.

ARTICLE VII District Regulations

§ 155-37. R-1 Expanded Hamlet Residential District. [Amended 2-11-1997 by L.L. No. 1-1997]

- A. Purpose. R-1 Expanded Hamlet Residential District is established to accommodate residential development in those areas within the Town suitable for the more intensive development.
- B. Permitted uses. The following uses are permitted in the R-1 District:

- (1) Single-family dwellings.
 - (2) Educational and religious institutions.
 - (3) Cemeteries.
 - (4) Public parks.
 - (5) Government uses necessary for the health, welfare and convenience of a municipal corporation.
 - (6) Accessory uses: buildings as found under the definition of "accessory building or use" in § 155-3.
 - (7) Home occupations.
- C. Area width and yard requirements.
- (1) Minimum lot area 12,000 square feet.
 - (2) Minimum lot width 80 feet.
 - (3) Yard requirements.
 - (a) Front yard: 30 feet.
 - (b) Side yard: 10 feet.
 - (c) Rear yard: 50 feet; garages and outbuildings may be located within 10 feet of the rear line.
- D. Building bulk limitations. Maximum building height 2 1/2 stories or 35 feet, excluding church spires, chimneys, and radio and TV antennas.
- E. Off-street parking requirements: single-family residences, two spaces.

§ 155-38. R-2 Single-Family Residential District. [Added 7-5-1994 by L.L. No. 3-1994]

- A. Bounds. The R-2 Single-Family Residential District is bounded on the north by Holmes Hill Road, on the east by Turkey Hill Road, on the south by Henderson Hill Road, and on the west by East Lake Road.
- B. Purpose. The R-2 Single-Family Residential District is established to limit the intensity of residential development in the subject area.
- C. Permitted uses. The following uses are permitted in the R-2 District:
- (1) Single-family dwellings.
 - (2) Educational and religious institutions.
 - (3) Public parks.

- (4) Government uses necessary for the health, welfare and convenience of a municipal corporation.
 - (5) Accessory uses: building as found under the definition of "accessory building or use" in § 155-3.
 - (6) Home occupations.
- D. Area, width, and yard requirements.
- (1) Minimum lot area: 87,120 square feet (two acres).
 - (2) Minimum lot width: 150 feet
 - (3) Minimum lot depth: 150 feet.
 - (4) Setbacks.
 - (a) Front: 50 feet.
 - (b) Side: 10 feet.
 - (c) Rear: 50 feet, garages and outbuildings may be located within 10 feet of rear lot line.
- E. Building bulk limitations. Maximum building height is 2 1/2 stories or 35 feet, excluding church spires, radio and TV antennas.
- F. Off-street parking. A minimum of three off-street parking spaces shall be provided.
- G. Slope.
- (1) Architectural design of the house or structure shall be such as to minimize the amount of cutting into the embankment, general grading and removal of vegetative cover. This shall generally mean designing a rectangular-shaped structure which can be placed parallel to the contour of the hill.
 - (2) Erosion control for slope conditions. The use of silt fences to control runoff during construction (i.e., straw bale disk) is required. Erosion control will be in place during construction.
 - (3) Location of driveway, walkway, accessory buildings and structures and general grading shall conform to the overall objective of Subsection G(1) above.
 - (4) Terracing, placement of sod, planting and the construction of retaining walls shall be performed as found necessary.
 - (5) Any area of land from which topsoil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.
 - (6) No construction or structural alteration of a building and/or adjacent land areas to serve said construction shall be commenced without a zoning permit issued by the

Code Enforcement Officer or designee. Applications for a permit shall be accompanied by evidence that the provisions of this § 155-38F are adhered to. No excavation construction is recommend from November 15 to March 15.

§ 155-39. LR-1 Lake Residential District.

- A. Purpose. The purpose of the LR-1 Lake Residential District is to define that area of development adjacent to Conesus Lake, wherein a less dense development is preferred and thought to be in the best interest for preserving the amenities and environmental qualities in the Town and associated with the Lake.
- B. Permitted uses. The following uses are permitted in the LR-1 District:
- (1) Single-family dwellings.
 - (2) Two-family dwellings.
 - (3) Home occupations.
 - (4) Accessory uses: buildings as found under the definition of "accessory building or use" in § 155-3. [Added 4-6-1993 by L.L. No. 1-1993]
- C. Area, width, and yard requirements.
- (1) Minimum lot area.
 - (a) 5,000 square feet for single-family dwelling.
 - (b) 7,500 square feet for two-family dwelling.
 - (2) Minimum lot width.
 - (a) 45 feet for single-family dwelling.
 - (b) 60 feet for two-family dwelling.
 - (3) Yard requirements.
 - (a) Front yard: 25 feet.
 - (b) Side yard: 5 feet.
 - (c) Rear yard: above the high-water elevation.
- D. Building bulk limitation.
- (1) Maximum building height: 2 1/2 stories or 35 feet, excluding church spires and radio and TV antennas.
 - (2) Maximum building coverage: 50%.
- E. Off-street parking requirements: Two off-street parking places shall be provided for each dwelling unit.

§ 155-40. LR-2 Lake Residential District.

- A. Purpose. The LR-2 Lake Residential District is established to accommodate those areas adjacent to the lake which have been developed more intensively. The requirements listed herein are felt to be minimum requirements for any type of development adjacent to the lake.
- B. Permitted uses. The following uses are permitted in the LR-2 District:
- (1) Two-family dwellings.
 - (2) Single-family dwellings.
 - (3) Home occupations.
 - (4) Accessory uses: buildings as found under the definition of "accessory building or use" in § 155-3. [Added 4-6-1993 by L.L. No. 1-1993]
- C. Yard requirements.
- (1) Single-family dwelling.
 - (a) Minimum lot area: 3,000 square feet.
 - (2) Two-family dwelling units.
 - (a) Minimum lot area: 5,000 square feet.
 - (3) Minimum lot width: 40 feet.
 - (4) Yard requirements.
 - (a) Front yard: 10 feet.
 - (b) Side yard: 5 feet.
 - (c) Rear yard: above the high-water elevation.
- D. Building bulk limitations.
- (1) Maximum building height: 2 1/2 stories or 35 feet, excluding church spires and radio and TV antennas.
 - (2) Maximum building coverage: 50%.
- E. Off-street parking requirements: Two off-street parking places shall be provided for each dwelling unit.

§ 155-41. B Business District.

- A. Purpose. The B Business District is established to provide for areas within the Town to accommodate the sales and service establishments necessary to serve the residents of the Town.

B. Permitted uses. The following uses are permitted in the B Business District:

- (1) Retail stores.
- (2) Commercial sales and printing.
- (3) Cleaning establishments.
- (4) Bowling alleys.
- (5) Pool and billiard rooms.
- (6) Coin-operated laundries.
- (7) Business and professional offices.
- (8) Fraternal and social organizations, clubs and lodges.
- (9) Fruit and vegetable stands.
- (10) Drive-in restaurants.
- (11) Tourist homes, motels, and hotels.
- (12) Veterinary services.
- (13) Single-family residence when associated with a commercial use.
- (14) Governmental uses necessary for the health, welfare, and convenience of municipal corporation.
- (15) Auto repair shop.
- (16) Building material storage.
- (17) Machine shop.
- (18) Restaurant.
- (19) Single-family residence.
- (20) Two family residence.
- (21) Multiple family residence.

C. Area, width, and yard requirements.

- (1) Minimum lot area: N.A.
- (2) Minimum lot width: N.A.
- (3) Yard requirements.
 - (a) Front yard: 10 feet.
 - (b) Side yard: 5 feet.

(c) Rear yard: 50 feet.

D. Building bulk limitations.

- (1) Maximum building height: 2 1/2 stories or 35 feet, excluding church spires and radio and TV antennas.
- (2) Maximum building coverage: 30%.

E. Off-street parking requirements: See § 155-36.

§ 155-42. A/RR Agricultural/Rural Residential District. [Amended 7-21-1987 by L.L. No. 2-1997; 2-11-1997 by L.L. No. 1-1997]

A. Purpose. The purpose of the A/RR Agricultural/Rural Residential District is to maintain the rural character of the Town through increased lot sizes and frontage.

B. Permitted uses. The following uses are permitted in the A/RR District:

- (1) Agricultural uses.
- (2) Educational and religious institutions.
- (3) Single-family dwellings.
- (4) Two family dwellings.
- (5) Public and private parks.
- (6) Cemeteries.
- (7) Campsite (individual).
- (8) Governmental uses necessary for the health, welfare and convenience of a municipal corporation.
- (9) Double-wide mobile homes, when installed on a permanent foundation wall.
- (10) Recreational.
- (11) Home occupation.
- (12) Accessory buildings of 170 square feet or less which would not require a building permit, but zoning regulations such as setbacks from property lines must be adhered to.

C. Area, width and yard requirements.

- (1) Two-acre lot minimum.
- (2) Minimum lot width: 150 foot wide at setback (building location).
- (3) Yard requirements.

- (a) Front yard: 30 feet.
- (b) Side yard: 10 feet.
- (c) Rear yard: 50 feet.
- (d) Accessory buildings may be located no closer than 10 feet to side and rear property lines and no closer than 30 feet to the front property line. Flag lot configuration will be allowed with a fifty-foot road access. This increases ability for development.

D. Double-wide mobile home. Double-wide mobile homes:

- (1) Must be installed on a permanent foundation wall. They must carry a 1976 or later HUD data plate and conform to New York State Uniform Fire and Building Code standards (as stated in Article III, 12.20, 12.21, 12.22 and 12.23 of those standards). Each entrance should have proper stairs and footing in accordance with New York State Uniform Fire and Building Code standards (as stated in Article III of those standards).
- (2) Must meet HUD approval and New York State Mobile Home Standards; base to be enclosed within 60 days with wood, cement, metal, rigid plastic, or factory-approved materials. State and county sanitary regulations must be observed.

E. Off-street parking requirements. Off-street parking facilities will be provided as follows:

- (1) Single-family dwellings: two spaces.
- (2) Two-family dwellings: four spaces.

ARTICLE VIII Conditional Use Permits

§ 155-43. Uses requiring conditional use permit.

In accordance with provisions set forth in § 155-17, the Board of Appeals may authorize the issuance of a conditional use permit for any of the following uses. In addition to those requirements specified herein and below, the Board may impose other reasonable conditions to be set for the granting of such permits.

§ 155-44. Hotels, motels, and tourist homes.

Hotels, motels, and tourist homes are permitted in R-1, LR-1 and LR-2 Districts.

§ 155-45. Nursing homes and institutions.

Nursing homes and institutions for the care of the aged are permitted in the R-1 and A/RR Districts.

§ 155-46. Mobile homes and mobile home parks. [Amended 7-21-1987 by L.L. No. 2-1987]

- A. No person shall locate any mobile home, whether resting on wheels or permanent foundations, upon private property in the Town, nor shall any owner of real property within the Town permit any mobile home to be located, situated or parked upon his property except as hereinafter set forth.
- B. Individual mobile homes may only be allowed in the A/RR Districts.
- C. Mobile home parks.
- (1) Mobile homes shall be allowed in a mobile home park, which has received a conditional use permit approved by the Town Planning Board and the Board of Appeals.
 - (2) Mobile home parks may be allowed as conditional use permit uses in the A/RR District upon the approval of a conditional use permit. This provision shall apply to the expansion or alteration of existing mobile home parks as well.
 - (3) No site preparation or construction shall commence until final site plan approval has been granted by the Planning Board and permits have been issued by all government agencies involved.
 - (4) The minimum site area of proposed mobile home parks shall be not less than 30 acres.
 - (5) Mobile home lots shall have an area of not less than 7,200 square feet. Each mobile home lot shall front on an interior park roadway and have a minimum width of 60 feet. An iron stake shall be located and maintained by the park owner at each mobile home lot.
 - (6) Minimum front setbacks for mobile homes shall be 20 feet; minimum side setbacks shall be five feet on one side, with a total of 20 feet on both sides; and minimum rear setbacks shall be 10 feet.
 - (7) The minimum setbacks of every mobile home, building or other structure in a mobile home park from the nearest public street line shall be 70 feet and from every other lot line of the mobile home park shall be 40 feet.
 - (8) Not more than one mobile home shall be located on any one mobile home lot. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
 - (9) At least one service building shall be constructed in each mobile home park, which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment shall be stored within said building when it is not in use.
 - (10) All mobile home lots shall be provided with a patio of cement or concrete at least eight feet by 20 feet and four inches in depth. Such patio shall not be used as a parking space, and no portion of the mobile home shall be located on such patio.

- (11) Each mobile home lot must have not less than two off-street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by a paved sidewalk having a minimum width of 24 inches and a minimum depth of 3 1/2 inches of concrete or two inches of compacted asphalt.
- (12) No boats, campers, travel trailers, recreational vehicles or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a mobile home park except in areas designated and approved for such storage as part of the site development plan approval.
- (13) Every roadway within a mobile home park shall have a minimum pavement width of 22 feet and a minimum right-of-way width of 50 feet. If culs-de-sac exist, they shall have a minimum diameter of 70 feet.
- (14) A complete water distribution system approved by the Health Department, including a water service pipe for each mobile home lot and appropriately spaced fire hydrants, shall be installed.
- (15) A public sanitary sewage disposal system approved by the Health Department and other appropriate agencies shall be installed, including a sewer connection for each mobile home lot.
- (16) An adequate storm drainage system shall be installed.
- (17) All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- (18) Appropriate streetlighting shall be installed on interior roadways, with the minimum number of lights being one at each intersection of interior roadways with each other or with abutting public roads and at least every 200 feet where such intersections are more than 200 feet apart.
- (19) Pedestrian walkways shall be provided along at least one side of all interior streets, having a width of approximately four feet.
- (20) A landscape plan shall be prepared and carried out which will assure the Town Board and Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- (21) No mobile home shall be located on a mobile home lot until the roadways, sanitary sewage disposal system, water supply and storm drainage system serving said mobile home lot have been installed in accordance with the approved site development plan for the mobile home park.
- (22) Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent number which shall be noted on the mobile home lot in a location clearly visible from the roadway.
- (23) All fuel tanks within a mobile home park, including all fuel tanks used for heating within mobile homes, shall be installed in accordance with the National Fire Protection Association standards.

- (24) Every mobile home park shall have a recreation area or open space for use by the occupants of the mobile home park. Such area shall be not less than 10,000 square feet or 1,000 square feet per mobile home lot in the park, whichever is greater.
- (25) The park owner shall provide for the regular collection and disposal of garbage, trash and rubbish.
- (26) Each mobile home lot shall require one accessory building to be provided and maintained by the park owner. The minimum size of the accessory building to be not less than 80 square feet.
- (27) Each mobile home shall be enclosed at the bottom with either a metal, wood or vinyl skirt or enclosure within 30 days after the placement of the mobile home on the lot.
- (28) No enclosure or addition having a ground area greater than 50% of the ground area of the mobile home shall be constructed on or added or attached to the exterior of any mobile home. Any enclosure or addition shall have a concrete floor or other suitable floor on a concrete base. Such enclosure must be constructed of wood or metal frame and siding must be portable as a unit or in sections. The foregoing provisions of this subsection obtained from the Code Enforcement Officer or designee prior to construction of any such enclosure or addition, and the application therefor must show a detailed plan of the proposed construction, showing compliance with the terms of this chapter. Such structure must be completed or entirely removed from the mobile home park within two months of the date of issuance of such permit.
- (29) No mobile home shall be offered for sale, displayed for sale or sold within a mobile home park unless such mobile home is located on a mobile home space and is connected to an electric public utility supply and to public sewer and public water supply.
- (30) Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provisions of this subsection shall apply to existing mobile home parks and mobile home parks hereafter established within the Town of Conesus.
- (31) Register of occupants. The owner of every mobile home park shall keep a record of the occupants and the mobile homes located within the park. A copy of such register shall be made available to the Zoning Officer upon his demand. Such register shall contain the following:
 - (a) The name and address of each occupant.
 - (b) The make, model, year and serial number of each mobile home, and the mobile home space within the park on which the same is located.
 - (c) The dates of arrival and departure of each mobile home.

- (32) Sale of lots. Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the Town, shall thereupon immediately invalidate the permit for such park approved by the Town Planning Board. Any use of any of the premises within the mobile home park other than as a mobile home park shall thereupon immediately invalidate the permit of such park approved by the Town Planning Board.

§ 155-47. Nonilluminated billboards.

Nonilluminated billboards are permitted in B and A Districts. Nonilluminated billboards may be permitted so long as they are not constructed so as to constitute a hazard to traffic.

§ 155-48. Junkyards.

Junkyards are permitted in the A District. Junkyards may be permitted, provided that suitable fencing or screening is constructed to shield the area from the view of any public road. No junkyard will be operated within 50 feet of any public road.

§ 155-49. Gravel pits.

Gravel pits are permitted in the A District with the following conditions:

- A. Suitable fencing is provided to keep out the public.
- B. Suitable screening is provided to shield the operation from view from any public road.
- C. Guarantees are provided that the area will be returned to a usable slope at the conclusion of the gravel pit operation.

§ 155-50. Lake-oriented businesses.

Lake-oriented businesses are permitted in the LR-1 and LR-2 Districts, provided that off-street parking is provided to meet the needs of the particular business. Such businesses must be oriented to lake use.

§ 155-51. Gasoline filling stations.

Gasoline filling stations are permitted in the B District.

§ 155-52. Public utilities.

Public utilities are permitted in all districts.

§ 155-53. Bed-and-breakfast establishments and inns. ¹³ [Added 4-21-1992 by L.L. No. 3-1992; amended 12-21-1999 by L.L. No. 1-1999]

Bed-and-breakfast establishments and bed-and-breakfast inns shall be permitted as an accessory use in all residential and business districts, subject to the issuance of a conditional use permit by the Board of Appeals upon the recommendations by the Town Planning Board and the following conditions and limitations.

- A. An application for a conditional use permit shall be accompanied by a fee as set forth in the Schedule of Fees,¹⁴ or such other amount as may be set from time to time by resolution of the Town Board. The permit may be issued only after a public hearing and upon the determination that the proposed use is in compliance with conditions and limitations set forth in this section and this chapter. A permit shall be valid for a period not to exceed two years and may be revoked at any time by the Code Enforcement Officer or designee upon noncompliance with the conditions set forth in this section or in the permit itself. A renewal permit may be issued with payment of fee for a period not to exceed two years.
- B. Existing bed-and-breakfast establishments and inns shall apply for a conditional use permit, conform with the conditions set forth in this section, and pay the required fee within six months of the enactment of this section.
- C. The applicant for a conditional use permit shall submit to the Town Planning Board statements from the Fire Marshal on the adequacy of the premises for the purposes of safety, fire protection, and structural soundness. Such statements shall include recommendations, if any, for improvements or changes deemed advisable, which will be considered by the Board in determining the merits of the applications. Each sleeping unit must have a smoke alarm system, and each sleeping unit shall have two fire exits.
- D. The applicant for a conditional use permit shall submit to the Town Planning Board such plans of the structure and layout of the residence as the Town deems necessary to assure that the bed-and-breakfast complies with this section.
- E. The applicant shall be the owner of the premises and a full-time resident of the premises.
- F. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of a bed-and-breakfast establishment other than one sign, not exceeding six square feet in area, nonilluminated and mounted on the property.
- G. Water supply, wastewater disposal and other sanitary facilities shall be approved by the Health Department.
- H. It will be serviced adequately by essential public facilities such as highways, streets, police and fire protection, refuse disposal, water, and septic services, or the persons or agencies responsible for the establishment shall be able to provide adequately any such services.

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1. General Provisions, Art. I).

14. Editor's Note: The Schedule of Fees is on file in the Clerk's office.

- I. It will be harmonious and in accordance with the general and specific objectives of the Conesus Master Plan if one exists.
- J. A minimum of one off-street parking space for each sleeping unit offered shall be provided. Parking areas having exits on any main road shall be designed in such a way that vehicles enter the public right-of-way in a forward motion.¹⁵

ARTICLE IX

Adult Uses

[Added 9-6-2005 by L.L. No. 2-2005]

§ 155-54. Purpose; intent.

- A. It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of Conesus, this article is added to the Town of Conesus Zoning Ordinances. It is intended to restrict adult uses to certain nonresidential areas of the Town of Conesus and otherwise regulate their operation. This article is intended to promote the health, safety and general welfare of the residents of the Town of Conesus by regulating the concentration of such uses and shall be included in the Town of Conesus Zoning Ordinances as the Adult Uses article.
- B. The Constitution and laws of the State of New York grant to the Town of Conesus powers to enact reasonable legislation and measures to regulate and supervise adult entertainment establishments in order to protect the public health, safety and welfare.
- C. It is not the intent of the Town of Conesus in enacting this article to deny to any person rights to speech protected by the United States and/or State Constitutions, nor is it the intent of the Town of Conesus to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually oriented films, video tapes, books and/or other materials. Further, by enacting this article, the Town of Conesus does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually oriented materials protected by the United States and/or State Constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have.

§ 155-55. Definitions.

As used in this article, the following terms shall have the meanings indicated. NOTE: These definitions are to include any type of business(es) or combination of business(es) where specified anatomical areas are displayed or specified sexual activities are encountered.

ADULT BOOKSTORE — An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals, films and viewing materials for sale or viewing on premises by use of

15. Editor's Note: Original Article XV, Dock, Pier, Wharf and Moorings, which immediately followed this section, was deleted 2-18-2003 by L.L. No. 2-2003. See Ch. 74, Docks, Piers, Wharves and Moorings.

motion-picture devices or any coin-operated means, including video tapes and props and toys, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment or business containing a segment or section devoted to the sale or display of such material.

ADULT CABARET — A business enterprise which serves food or beverages for consumption on the premises, with or without carry-out service, which features entertainers or waiters and/or waitresses who display any specified anatomical area or who depict, describe or simulate specified sexual activities.

ADULT ENTERTAINMENT CABARET — A public or private establishment that presents topless dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments.

ADULT MOTION-PICTURE THEATER — An enclosed building or structure or portion of a building or structure used for presenting materials having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT USE — An adult bookstore, adult cabaret, adult entertainment cabaret, adult motion-picture theater, massage establishment, body-rub establishment, peep show or any other business(es) where specified anatomical areas are displayed or specified sexual activities are encountered.

BODY RUB ESTABLISHMENT — Any establishment having a fixed place of business where body rubs are administered for pay.

MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic; or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist; or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages. Such establishments are not prohibited, provided they have a duly licensed massage therapist on the premises.

PEEP SHOWS — A theater that presents material in the form of live shows, films or videotapes, viewed from an individual enclosure and that charges a fee and that is not open to the public generally.

SPECIFIED ANATOMICAL AREAS —

- A. Less than the completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse, sodomy or bestiality.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SUBSTANTIAL CONNECTION —

- A. In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building or location upon which any adult use takes place.
- B. In a partnership, limited or general, an individual who shares in any potential profits or losses of the business or who shares in the ownership of any of the assets of the partnership business.
- C. In a corporation, an individual who is an officer, director or a holder, either directly, indirectly or beneficially, of more than 20% of any class of stock.
- D. Any person who furnishes more than 20% of the capital financing or assets of such business, whether in cash, goods or services.

§ 155-56. Restrictions.

- A. The adult bookstores, adult cabarets, adult entertainment cabarets, adult motion-picture theaters, adult motels, massage establishments, body rub establishments and peep shows or any other adult use governed by these provisions shall be allowable only for properties located in the areas zoned B Business District and subject to the requirements herein established.
- B. No more than one of the uses governed by these provisions shall be permitted on any single qualifying building lot in the Town of Conesus.
- C. None of the uses governed by these provisions shall be allowed in any zoned district of the Town of Conesus where conditions as herein provided for exist:
 - (1) Within 500 feet of the boundary of any residential or residential/agricultural zoning district.
 - (2) Within 1,000 feet of the property line of a public or private school, hospital, synagogue, church or other religious institution, day-care center, youth center, park or playground, public library or areas where minors congregate.
 - (3) Within 1,000 feet of the property line of any lot containing an adult use.
- D. All adult uses, adult bookstores, adult cabarets, adult entertainment cabarets, adult motion-picture theaters, adult motels, massage establishments, body-rub establishments and peep shows, with the exception of their permitted signs, landscaping and off-street

parking, shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to see any specified anatomical area or any specified sexual activity by virtue of any act or display that depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.

- E. A person who knowingly owns, manages, operates, conducts or maintains any of the uses governed by these provisions in any manner which is contrary to these regulations shall be subject to prosecution under § 155-63, Penalties for offenses, of this article.
- F. No such establishment as defined in this ordinance shall employ any individual(s) below the age of 18 years.

§ 155-57. Registration.

No person, firm, corporation or other entity shall lease, rent, maintain, operate, use or allow to be operated or used any business or establishment, any part of which contains an adult use, without first complying with the provisions of this section as set forth below:

- A. In addition to the completion of the short EAF (environmental assessment form) and any and all other necessary licenses and permits, no form of adult use shall be allowed to operate or continue to operate until a certificate of registration in the form of a special use permit issued according to the procedures set forth herein for such permit by the Town of Conesus. Such permit shall be issued and filed with the Conesus Town Clerk. Upon approval to issue, the special use permit (aka: certificate of registration) shall contain:
 - (1) The name and address of the business or the establishment subject to the provisions of this article.
 - (2) The names, business and home addresses and business or home phone numbers of all owners of the business or establishment subject to the provisions of this article.
 - (3) The names, business and home addresses, and business or home phone numbers of all those persons having a substantial connection with the business or establishment subject to the provisions of this article.
 - (4) The date of the initiation of the adult use.
 - (5) The exact nature of the adult use.
 - (6) If the premises or the building in which the business containing the adult use is located is leased, a copy of the lease, name of the tenant and name, address and telephone number of the property owner shall be provided.
 - (7) The applicant shall also submit a plan drawn to appropriate scale of the premises proposed for registration indicating the areas to be covered by the registration, all windows, doors, entrances and exits and the fixed features of the proposed registered premises. The term "fixed features" shall include walls, stages, immovable partitions, projection booths, admission booths, concession booths and

stands, immovable counters and similar appurtenances that are intended to be permanent.

- (8) The applicant shall state all criminal convictions, the nature of such conviction(s), if any, and location(s) where activity occurred.
- B. If any change occurs in the information required for the process or the certification of registration, the Conesus Town Clerk shall be notified of such change and a new, or amended, certificate filed within 30 days of such change.
- C. The processing fee for such certificate of registration as listed in the Town's Schedule of Fees, which shall be issued as a special use permit, and renewed annually, shall be payable to the Conesus Town Clerk annually. Any amendment to an existing certificate of registration shall constitute a fee of \$50 payable to the Conesus Town Clerk at time of filing.
- D. No certificate of registration issued under the provisions of this article shall be transferable to any person other than the registrant, nor shall a certificate of registration be transferable for use at any premise(s), building(s) or location(s) other than stated in the certificate of registration
- E. In regards to change of name or address, a registrant may not move the registered adult use to a new location or a new registrant without first following the same procedure for the issuance of a new registration and the payment of the application fee. The registrant shall submit to the Conesus Town Clerk an application for a change of location, or registrant, accompanied by the special use permit application fee.
- F. The owner, manager or agent of any adult use shall cause a copy of the certificate of registration issued under the provisions of this article to be prominently displayed at all times on the premises, building or location for which it is issued.
- G. Any knowingly false statement or any statement which the registrant or applicant should reasonably have known to be false which is provided in the certificate of registration or any document or information supplied therewith shall be grounds for denial, rejection, suspension or revocation of the certificate of registration.
- H. It is a violation of this article for the owner or person in control of any property to establish or operate thereon or to permit an adult use without having in force and displayed a certificate of registration complying with this section.
- I. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window, screen or other opening on any structure or portion of the property.

§ 155-58. Registration approval process.

- A. Upon the completion of the investigation of an application by the Code Enforcement Officer (CEO), and any additional police agency required by the CEO, the CEO shall

submit a written recommendation for approval or disapproval along with the application to the Town of Conesus Planning Board to initiate the special use permit process.

- B. If approved, the Town Clerk shall notify the applicant and issue the certificate of registration upon the payment of the registration fee.
- C. If disapproved, the CEO shall indicate the reason(s) for the disapproval either on the application, or in a separate attached written document. The CEO shall inform the applicant of the disapproval. Notification of disapproval shall be by certified mail and shall be sent to the address on the registration application, which shall be considered to be the correct address and meet requirements for complete and sufficient notice.

§ 155-59. Term of registration.

- A. All registration(s) issued under this article shall be classified as annual registration(s) that shall be paid for on or before October 1 and shall expire on September 30 of the following year. A registrant beginning business after October 1 and before April 1 may obtain a new registration upon application thereof and the payment of the appropriate annual registration fee, and such registration shall expire on the following September 30. A registrant beginning business after March 31 and before October 1 may obtain a new registration upon application thereof and the payment of 1/2 of the appropriate annual registration fee herein required, and such registration shall expire on September 30 of the same year. The provisions of this section shall not affect any other provisions of the regulation.
- B. A registrant under this section shall be entitled to a renewal of his or her annual registration from year to year, as a matter of course, on or before October 1, by presenting the registration for the previous year or satisfactory evidence of its loss or destruction to the Town Clerk and by paying the appropriate registration fee. It shall also be required at this time that the registrant provide a copy of a current New York State Fire Inspection form issued by the Code Enforcement Officer showing that the establishment is in total compliance with all the codes.

§ 155-60. Denial of registration.

A new or renewal application for registration shall be denied:

- A. When the applicant or any of the other individuals listed as having an interest in the establishment have had their registration previously suspended or revoked or have been a partner in a partnership or an officer, director or principal stockholder of a corporation whose registration has previously been suspended or revoked.
- B. When any false statement is made on the application for registration.
- C. When the applicant or partner in a partnership or an officer, director or principal stockholder of a former or existing corporation or the corporation itself has been convicted of a criminal act in this state or any other state within five years immediately preceding the date of the application.

- D. Any new corporation formed by an officer, directors or principal shareholders of a corporation that has been convicted of a criminal act in this state or any other state within five years immediately preceding the date of the application.

§ 155-61. Revocation of registration.

The certificate of registration issued under this article shall be revoked immediately if the applicant or partner, officer or principal stockholder of a former or existing corporation or the corporation itself is convicted of a criminal act in this state or any other state during the certificate's span of issuance.

§ 155-62. Provisions declared to be minimum requirements.

In the interpretation, application and enforcement of the provisions of this article, the provisions thereof shall be held to be minimum requirements necessary for the protection of the health, safety and general welfare of the residents and citizens of the Town of Conesus.

§ 155-63. Penalties for offenses.

Any person who violates any provision of this article or any regulation adopted hereunder is guilty of an offense punishable by a fine up to \$5,000 or imprisonment for a period up to 30 days, or both. Each day the violation continues shall constitute a separate violation.

ZONING

Town of Conesus Zoning Map

