

Canandaigua Town Board
Meeting Agenda for
February 12, 2024
Onnalinda Room - 6:00 – 7:30 PM

- Call To Order and Pledge of Allegiance
 - Pledge led by Councilperson Adeline Rudolph
- Roll Call
 - Town Clerk Confirmation meeting was properly advertised

Please take notice that as the first meeting of the month, this meeting will take on a slightly different format as approved by TB Resolution 2024-46.

- Priority Business
- Presentations
 - Ian Coyle: Pracademics Partners
- Public Hearings

- A PUBLIC HEARING TO ADOPT A LOCAL LAW TO AMEND TOWN CODE CHAPTER 220-9.1 SHORT TERM RENTALS; AND SEQR INTENT TO DECLARE LEAD AGENCY (Attachment 1)
- A PUBLIC HEARING TO RE-ADOPT A LOCAL LAW TO AMEND TOWN CODE CHAPTER 220-31 INCENTIVE ZONING (Attachment 2)
- A PUBLIC HEARING TO RE-ADOPT A LOCAL LAW TO AMEND TOWN CODE CHAPTER 220-33.2 AGRICULTURAL PROTECTION OVERLAY DISTRICT (Attachment 3)
- A PUBLIC HEARING TO RE-ADOPT A LOCAL LAW TO AMEND TOWN CODE CHAPTER 220-33.1 SCENIC VIEWSHED OVERLAY (Attachment 4)

- Resolutions and Motions

RESOLUTION NO. 2024 – 53: RE-ADOPTION OF LOCAL LAW NO. 9 OF 2022 TO AMEND THE TOWN CODE CHAPTER 220-31 INCENTIVE ZONING

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the re-adoption of local law number 9 of 2022 (Resolution 2022-273) to amend Town Code Chapter 220-31 Incentive Zoning due to a procedural error in which the referral to the Ontario County Planning Board was not completed in the initial adoption of said law in November 2022; and

ZOOM MEETING INFORMATION:

Please register in advance of this meeting using the following link:

https://us02web.zoom.us/join/92PBu15q7_hCirh9kEvA6VV

After registering, you will receive a confirmation email containing information about joining the meeting.

Please be aware all participants will be muted upon entry to the meeting and will only be able to speak after being acknowledged. Participants should use the “raise hand” feature or the chat box to request to speak. No screen sharing will be permitted. All meetings are recorded. Individuals will be removed from the meeting for inappropriate behavior.

WHEREAS, the Ontario County Planning Board, at their January 10, 2024 meeting reviewed the proposed local law; and

WHEREAS, the Town Board held a public hearing on February 12, 2024 on this re-adoption; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to re-adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. ____ of the Year 2024; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. ____ of the Year 2024 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Attachment 2

RESOLUTION NO. 2024 – 54 : RE-ADOPTION OF LOCAL LAW TO AMEND THE TOWN CODE
SECTION 220-33.2 AGRICULTURAL PROTECTION OVERLAY DISTRICT

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the re-adoption of local law number 6 of 2022 (Resolution 2022-216) which amended Town Code Chapter 220 to create a new section Chapter 220-33.2 Agricultural Protection Overlay District due to a procedural error in which the referral to the Ontario County Planning Board was not completed during the initial adoption of said law in August 2022; and

WHEREAS, the Ontario County Planning Board, at their January 10, 2024 meeting reviewed the proposed local law; and

WHEREAS, the Town Board held a public hearing on February 12, 2024 on this re-adoption; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to re-adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. ____ of the Year 2024; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. ____ of the Year 2024 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Attachment 3

**RESOLUTION NO. 2024 – 55 : RE-ADOPTION OF A LOCAL LAW TO AMEND TOWN CODE
CHAPTER 220-33.1 SCENIC VIEWSHED OVERLAY**

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the re-adoption of local law number 10 of 2022 (Resolution 2022-274) which amended Town code relating to §220-33.1 Scenic Viewshed Overlay District (SVO) due to a procedural error in which the referral to the Ontario County Planning Board was not completed during the initial adoption of said law in August 2022; and

WHEREAS, the Ontario County Planning Board, at their January 10, 2024 meeting reviewed the proposed local law; and

WHEREAS, the Town Board held a public hearing on February 12, 2024 on this re-adoption; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to re-adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. ____ of the Year 2024; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. ____ of the Year 2024 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Attachment 4

**RESOLUTION NO. 2024 – 56 : SURETY BOND ACCEPTANCE FOR METROSE SUBDIVISION
5100 & 5150 BRISTOL RD (TAX MAP #83.00-1-7.150 & 83.00-1-8.000)**

WHEREAS, Town of Canandaigua Town Board has requested a Surety Bond Estimate for Erosion Control, Water Distribution, Storm Water Infrastructure, Pavements & Roadway, and miscellaneous construction costs for the Metrose Subdivision (Tax Map # 83.00-1-7.150 & 83.00-1-8.000), owned by William Metrose, LTD; and

WHEREAS, the Town of Canandaigua Town Board has determined that a Surety Bond is to be provided and accepted by the Town Board; and

WHEREAS, the Town Engineer (MRB Group) has reviewed the proposed estimates and found them to be satisfactory to meet the conditions of approval and the work to be completed; and

WHEREAS, the applicant has provided a Surety Bond in the amount of \$473,133.00 for the purposes of Erosion Control, Water Distribution, Storm Water Infrastructure, Pavements & Roadway, and miscellaneous construction costs which has been reviewed and approved by Town Attorney Chris Nadler; and

NOW, THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby approves and accepts a Surety for the total amount of \$473,133.00 in the form of a Bond.

Attachment 5

- Privilege of the Floor
- Executive Session, as requested.
- Adjournment

ATTACHMENT 1

***** DRAFT *** RESOLUTION NO. 2024 – xxx: SEQR DETERMINATION OF NON-SIGNIFICANCE AND ADOPTION OF A TEXT CODE AMENDMENT TO TOWN CODE CHAPTER 220-9.1 SHORT TERM RENTALS ***** DRAFT*******

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the adoption of a Local Law to execute a text code amendment to Town Code Chapter §220-9.1 Short Term Rentals; and

WHEREAS, the Town Board of the Town of Canandaigua held a public hearing(s) on the proposed local law on February 12, 2024; and

WHEREAS, the Town Board determines said proposed action is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board of the Town of Canandaigua has given consideration to the criteria for determining significance as set forth in § 617.7(c)(1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Town Board of the Town of Canandaigua has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby designates itself as lead agency for the described action; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua has reasonably concluded there would not be any substantial adverse impact on the following: land use planning or zoning regulations; intensity of use of the land; character or quality of the existing community; environmental characteristics; existing level of traffic or infrastructure, use of energy; public or private water supplies; public or private wastewater treatment utilities; character or quality of important historic, archaeological, architectural or aesthetic resources; natural resources; potential for erosion, flooding or drainage problems; or creation of a hazard to environmental resources or human health; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua determines upon the information and analysis documented, the proposed action will not result in any significant adverse environmental impacts; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua does hereby make a Determination of Non-Significance on the proposed action; and

BE IT FURTHER RESOLVED, the Town Manager is hereby directed to sign the Short Environmental Assessment Form Part 3 and file with the Town Clerk as evidence the Town

Board has determined the proposed action will not result in any significant adverse environmental impact; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. ____ of the Year 2024; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua directs the Town Clerk to include SEQR, findings, and narrative of the Town Board of the Town of Canandaigua as it pertains to this Local Law for filing purposes; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. ____ of the Year 2024 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Attachment ***

STR law concerns from a local business owner

pcoons@gmail.com <pcoons@gmail.com>

Fri 2/2/2024 12:39 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>; Terry Fennelly <tfennelly@townofcanandaigua.org>; Adeline Rudolph <arudolph@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>; Lindsay Frarey <LFrarey@townofcanandaigua.org>

To Canandaigua Town Board,

My name is Peter Coons. I am one of the owners of Seager Marine and COHO Pizza & Wine Bar located in the city of Canandaigua. I also have a home on West Lake Road in the town of Canandaigua, which I have rented out on a short-term basis. I am emailing you today to provide my experience of renting a house on a short-term basis and as a business owner who interacts with and benefits from those who take advantage of the many short-term rental (STR) properties on and around Canandaigua Lake.

Several years ago, my wife and I rented out our house on West Lake Road via Airbnb and VRBO. The extra income helped with taxes, expenses and allowed us to improve our property. Initially, we were nervous about opening our home to strangers, but having been on the other side of the Airbnb equation, we know how respectful we are of people's homes and assumed that others would equally respect ours. We were not disappointed, as we hosted dozens of guests over a short period of time without any significant issues or damage. We asked our guests to be respectful of our neighbors and their properties, especially since our houses are so close to one another, and they obliged. We never received a complaint from our neighbours about any of our guests.

We provided each group of guests with a list of our favorite restaurants, hiking spots, museums, breweries/wineries, and other fun things to do and places to visit, with the goal of showing out of town guests what makes Canandaigua and the Finger Lakes Region so special. Through feedback from many visitors, we learned that they visited many of our suggested spots, which helped us realize how much these short-term citizens can add to the local economy. We decided to stop offering our home on STR sites only because we now use the house year-round. If not for that, we'd likely still be in the STR business. However, given the recent restrictions to STRs I doubt we would be able to make it work.

Seager Marine and COHO Pizza & Wine Bar employs over 100 full-time and seasonal workers during the peak summer season. While working in our restaurant or on the boat docks our employees provide service to hundreds of customers, many of whom are staying at local STR properties. The STR market in Canandaigua has been an economic boon for our rental & charter business as well as the restaurant. It's also a benefit to Canandaigua through increased tax revenue and economic activity. Hamstringing homeowners who offer their homes via STRs will lead to a decrease in local tourism in our area. For Seager Marine, that means fewer boat rentals and fewer meals & drinks at COHO, which would likely result in a reduction of employees. For the larger region, it's fewer people at breweries, wineries, museums, coffee shops, retail stores, restaurants, public beaches, and every other amenity the Finger Lakes region has to offer. We are a resort town. The economy relies on people coming to this area in the summertime and that means people staying in STRs. The restrictions in the new law directed at STRs will have a negative ripple effect that will not only be felt by the homeowners who graciously offer their homes, but by every business, employee and tax paying resident in the greater Canandaigua region.

Please reconsider the restrictions in this law and specifically the ones that limit the number of people who can stay at a property based on parking spots and number of bedrooms.

Please feel free to contact me if you have any questions.

Thank you for your time.

Regards
Peter Coons
585-802-6448



Virus-free. www.avg.com

Whole house rentals

Margaret Hayes <margaretohayes@yahoo.com>

Fri 1/19/2024 6:25 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>

I was dismayed to learn that the town of Canandaigua is looking at preventing whole house rentals in the town. My family and I have rented a lovely house overlooking Canandaigua Lake for Thanksgiving or Christmas for the last four years. I truly feel that we blend right in to the neighborhood. We arrive quietly. We stay there quietly. And we leave quietly.

The property is a lovely place for us to be together as a family. We are extremely mindful of the neighbors, and of taking good care of the beautiful house that we are privileged to rent. It would be a shame to deprive family groups like mine of this opportunity to be together in Canandaigua over a holiday in a comfortable home setting.

And Canandaigua benefits from our presence too. We do all of our shopping locally. And we visit and enjoy local restaurants and cafés during our stay.

Sincerely

Margaret Hayes

28 Menlo Pl.

Rochester, NY 14620

Sent from my iPad

Short Term Rentals on Lakeview Lane

brooke lupton <blupton861@gmail.com>

Mon 1/22/2024 7:07 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>; Terry Fennelly <tfennelly@townofcanandaigua.org>; Adeline Rudolph <arudolph@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>; Lindsay Frarey <LFrarey@townofcanandaigua.org>

To whom it may concern:

I am the owner of and full time resident at 3459 Lakeview Lane, Canandaigua, NY. I am aware of the new rental code that the town has created. There are several rental properties on Lakeview Lane that neighbor our property. We have had no issues with the rentals or owners that surround us. The minor issues which have had were quickly resolved with a conversation, really no different than if the property was non-rental. Our neighbors have done a very good job of managing their rentals and have guidelines and rules in place that the renters follow. I don't think these properties being rentals have affected us in a negative way.

Further, someday we will sell our home and the laws that you are implementing will negatively affect our property value. Many people buying homes are helping to offset the tax and operating cost with rental income. When you limit what individuals can do with their properties, it will negatively affect the value that we may receive for our home.

Please let me know if you have any questions.

Thanks,

Brooke Lupton
585-739-3017


Showing Onanda Park as an STR on the Tourism Boards site....

Alan Lupton II <alupton@luptons.com>

Mon 1/22/2024 9:32 AM

To: Jared Simpson <jsimpson@townofcanandaigua.org>

Cc: Terry Fennelly <tfennelly@townofcanandaigua.org>; Adeline Rudolph <arudolph@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>; Lindsay Frarey <LFrarey@townofcanandaigua.org>

 1 attachments (108 KB)

Village of Penn Yan, Noise Law 1-21-2024.pdf;

As discussed today. Example of the Penn Yan noise ordinance.

Can you also please provide the zoom link for the Town Ordinance Committee meeting - Monday, February 5th at 9 AM? We plan to have folks attend in person or via zoom to offer comment on the law now that we are aware of it.

Screenshot from this morning showing there are no laws being considered by the Town of Canandaigua.

Location showing the Town of Canandaigua listing the Town owned, publicly funded STR's being offered for rent in competition with private taxpayers but not in compliance with the same laws.

<https://www.visitfingerlakes.com/places-to-stay/vacation-rentals/>



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Short Term Rental Ordinance

Mary Kraus <maryjanekraus@gmail.com>

Thu 1/18/2024 6:02 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>; Terry Fennelly <tfennelly@townofcanandaigua.org>; Adeline Rudolph <arudolph@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>; Lindsay Frarey <LFrarey@townofcanandaigua.org>

Dear Town of Canandaigua Board Members,

We have recently heard of the plan to limit STRs such as VRBO & Airbnb in Canandaigua. We would hate to see that happen.

I grew up in Rochester but live Arizona now. Canandaigua Lake is one of my most favorite places in the entire world. Our children live in Chicago and NYC. We often get all of us together through Airbnb or VRBO and Canandaigua Lake is always our first choice.

If we cannot get a short term rental there, we will not be able to visit there any longer. There are six adults and 7 young grandchildren in our family. We have never created any problems in the way of noise or partying.

When we come there, we spend a lot of money on boat rentals, Wegman's groceries and Abbot's Frozen Custard. I would think that the damage you would do to your local businesses and rental property owners would far exceed the damage that is done by short term renters.

Please do not limit our ability to be able to enjoy your wonderful town and lake.

Respectfully,

Mary Jane & Terry Kraus
Goodyear, AZ

Property Rentals

Patricia Patterson <ppatterson218@yahoo.com>

Tue 2/6/2024 4:29 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>

Good Afternoon,

In July of 2022, my husband and I rented a home on Canandaigua Lake for a week. It was a large home very well cared for in a nice quiet area of the lake front. We celebrated my daughter's (a professor at a NY university) wedding with 21 members of our immediate family. We thoroughly enjoyed a calm, rather quiet week in a lovely home. It was a perfect location and the local merchants provided everything we needed for the week — flowers, bakery, culinary fare and groceries, photography, beverages, swimming and boating paraphernalia, etc. We also were able to take full advantage of local restaurants, ice cream parlors, a theater (on a rainy day) and both small and large businesses. It was a great week enjoyed by family members ranging in age from 72 to 2 years old.

We highly recommend such a stay in Canandaigua and hope to return again for a repeat vacation.

Please know that we shopped all over NY and chose the location because of the very well maintained home in a quiet neighborhood close to entertainment and merchants. We also chose the location because the management required respect for property and the area. We were NOT interested in places that hosted loud wild gatherings. The property we chose was perfect for a small family gathering celebrating marriage and family. Our family gathered from NY, CO, MN and OH.

The only criticism we had was the condition of Canandaigua Lake. While several family members purchased fishing licenses, the condition of the lake was not pleasant at the time for fishing or swimming. However, the July 4th fireworks (on July 3rd) over the lake were spectacular.

Thank you for taking the time to review this email. I ask that you share my reflection with your colleagues.

Respectfully,
Patricia Patterson
Cleveland, OH

Sent from my iPhone

TOWN OF CANANDAIGUA
TOWN CODE CHAPTER 201
SHORT TERM RENTALS

201-1. Purpose.

The purpose of this Chapter is to regulate the use of property in the Town of Canandaigua for short term rentals. The provisions of this Chapter are intended to mitigate potential adverse effects and impacts caused by short-term rentals and to ensure that such short-term rentals do not cause safety hazards nor become disruptive to the quality of life for surrounding residents and to preserve the health, safety, and welfare of the community.

201-2. Applicability.

The provisions of this Chapter shall apply to the entirety of the Town of Canandaigua. Nothing herein shall replace or supersede any other law or regulation, including, but not limited to, Uniform Building Code and Uniform, health laws, or zoning regulations.

201-3. Permit Required.

Operation of a short-term rental ("STR") in the Town of Canandaigua shall require a Short-Term Rental Permit ("STR Permit") issued by the Zoning Officer. Operation, for purposes of this chapter, shall mean the rental of a dwelling unit or dwelling units for less than 30 days, and shall include the marketing, listing for rent, or other means of offering and/or making available of, said dwelling unit or dwelling units.

201-4. Authority to Issue STR Permit.

Any Zoning Officer or Code Enforcement Officer of the Town of Canandaigua ("Zoning Officer") is hereby authorized to issue, revoke, suspend, modify, or renew a STR Permit, and to otherwise carry out the provisions of this Chapter, including but not limited to enforcement and investigation of complaints.

201-5. Application for STR Permit.

In order to obtain a STR Permit an applicant must submit the following to the Zoning Officer in a manner specified by, and acceptable to, the Zoning Officer:

A. Completed Application Form, including

1. Name and contact information of property owner
2. Name and contact information of property manager, if any

3. Name and contact information for a 24-hour local contact.

- B. Floor plans showing entire premises, including dimensions, and showing all bathrooms, sleeping areas, and other areas, shown in compliance with the Real Property Systems database used by the Town.
- C. Site plan/map showing entire property, including parking, septic system, and any other relevant information.
- D. Proof of septic system capacity and a copy of most recent inspection in accordance with Town Code Chapter 202, if applicable.
- E. Evidence of property and liability insurance indicating that the property is insured and rated as a short-term rental, acceptable to the Zoning Officer, and a signed acknowledgement that the property will remain insured as a short-term rental throughout the term of the STR Permit and any subsequent renewals thereof.
- F. Signed acknowledgement that the property owner, property manager, and any agent thereof, has read the Town's short-term rental regulations and will comply with same.
- G. Proof of compliance with all operating requirements.
- H. Consent for Access. Owner shall sign a consent for Zoning Officer to access any or all portions of the property for purposes of inspection to ensure compliance with the provisions of this Chapter.

201-7. Operating Requirements.

Any short-term rental in the Town of Canandaigua shall comply with the following:

- A. Smoke alarms shall be installed and maintained in accordance with NYS Property Maintenance Code, Uniform Building Code, and Uniform Fire Prevention Code, including but not limited to:
 - 1. On ceiling or wall in the immediate vicinity of all bedrooms and/or sleeping areas.
 - 2. In each sleeping area and/or bedroom.
 - 3. At least one shall be installed on each floor, including basements.
- B. Carbon monoxide detectors shall be installed and maintained in accordance with Uniform Fire Prevention Code and Uniform Building Code including but not limited to the immediate vicinity of all sleeping areas in dwelling units that contain a fuel burning device.

- C. Emergency evacuation and means of egress to be used in the event of fire or other emergency must be listed in each bedroom or sleeping area.
- D. Operable fire extinguishers shall be available on each floor, and shall include at least one in each kitchen. Fire extinguishers shall be operable, readily accessible, and visible at all times.
- E. The house number shall be visible from the street or road frontage.
- F. Egress doors shall be operational, accessible, and readily operable without the need for keys, special knowledge, codes, or special effort except as allowed by Uniform Code.
- G. A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the exterior.
- H. Parking. Each STR property shall provide a minimum of 1 parking space for each 3 occupants of the property.
- I. The property must conspicuously post the following signage in a protected mounting in a common entryway. If no common entryway exists the posting shall be made at the entrance of each dwelling unit:
 - 1. Maximum occupancy authorized by the Zoning Officer
 - 2. Statement that no events are permitted
 - 3. A notice that occupants are not permitted to disturb neighbors and that all renters are subject to this Chapter and NYS Penal Law 240.20 or any successor statute regarding disorderly conduct, littering is illegal, and all fires must be attended complying with applicable burn bans or NYS regulations.
 - 4. Address of the property.
 - 5. Evacuation procedures to be followed in the event of a fire or other emergency.
 - 6. Contact numbers for emergency services and property's 24-hour local contact.
- J. All STRs must be, and remain, fully insured as short-term rentals.
- K. The STR properties shall remain in full compliance with all applicable State and local fire, building, health, and safety laws, and all relevant local ordinances at all times.
- L. No cooking facilities are permitted in individual bedrooms or any other rooms where guests can sleep.

M. Permanent exterior signs identifying the property as a short-term rental are prohibited unless permitted separately.

N. STRs must pay all applicable sales tax as well as any occupancy or lodging taxes.

P. Maximum Occupancy. The Zoning Officer shall establish the maximum occupancy in accordance with Uniform Code.

Q. No STR shall cause a disturbance or nuisance to neighbors, nearby properties, or the community if such disturbance or nuisance is greater than would be caused by a similar property not used for short-term rental.

201-8. Miscellaneous.

A. Fees. Town Board shall establish by resolution or fee schedule the amount to be charged for a STR Permit.

B. Term. STR Permits shall be valid for three years from the date of issuance, unless otherwise suspended or revoked.

C. Renewal. STR Permits may be renewed by the Zoning Officer upon submission of an acceptable renewal application.

D. Transferability. STR Permits are not transferable.

201-9. Enforcement.

A. The Zoning Officer shall investigate all reasonable complaints of lack of compliance with this Chapter.

B. The Zoning Officer is authorized to issue a notice of violation and/or order to remedy in the event of lack of compliance with this Chapter.

C. The Zoning Officer is authorized to suspend a STR Permit if lack of compliance with this Chapter is habitual, ongoing, or poses a risk to the health, safety, or general welfare of the community.

D. The Zoning Officer may commence proceedings in any court of competent jurisdiction to enforce the provisions of this Chapter.

201-10. Penalties.

Any person who violates the terms of this Chapter shall be guilty of a misdemeanor. Violations of this Chapter shall be punishable by a minimum fine of \$500 and a maximum fine of \$1000 per day. Fines issued shall be a lien against the property.

Drafting of Short Term Rental Ordinance

Carol Richter <fhscarol@hotmail.com>

Thu 1/18/2024 7:25 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>; Terry Fennelly <tfennelly@townofcanandaigua.org>; Adeline Rudolph <arudolph@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>; Lindsay Frarey <LFrarey@townofcanandaigua.org>

I was recently informed that the Town of Canandaigua is drafting a new Short-Term Rental ordinance.

We rented a home on Canandaigua Lake from Lupton Properties in July of 2022 to celebrate our 50th wedding anniversary with our children and grandchildren. We had a wonderful time that was really a dream come true for us all. It was wonderful to be able to do this together as a family in such a beautiful area. We rented a pontoon boat for the week, bought groceries, pizza and ice cream in town. We were just one rental out of many that week and I can only imagine the financial impact the rentals have on the economy of the town. We did not cause a disturbance and left the property in great condition. We received a 5 star rating from the owner.

I would hope that whatever you are considering would not eliminate this opportunity for future renters.

Carol & Robert Richter

Short-Term Rental (STR) ordinance

Corinne Rost <sugglace@yahoo.com>

Fri 1/19/2024 11:49 AM

To: Jared Simpson <jsimpson@townofcanandaigua.org>; Terry Fennelly <tfennelly@townofcanandaigua.org>; Adeline Rudolph <arudolph@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>; Lindsay Frarey <LFrarey@townofcanandaigua.org>

Our family has rented large summer lake houses on Cayuga Lake and most recently in 2023 on Canandaigua Lake for fantastic family gatherings of 15 people, including children. We have been advised that the Town of Canandaigua is considering a new Short-Term Rental (STR) ordinance which may severely limit the ability of future rentals on Canandaigua Lake. Our family loves the atmosphere of staying on the lake with the entire family and we certainly spend a lot of money in local stores, breweries and restaurants. This year, in Canandaigua, we spent over \$1000 at the local Wegmans, and several family members went to various local breweries on 3 of our 7 days, not only to enjoy the brewery day, but also to buy several cases of beer. I took my granddaughters on a shopping expedition one day to at least 6 stores, buying something in each one. We all went for ice cream most days. We do not understand the logic of limiting rental of beautiful homes in the Town or on the Lake. I do not believe many of your local stores would survive without visitors to your community. Renting a vacation house is much more enjoyable for our large family so we can all be together, instead of renting rooms somewhere at a small motel. My family has always respected the local town and always contribute to the local economy. We truly hope that you do not limit the ability of future rentals on the lake.

Corinne and David Rost

CITY OF CANANDAIGUA
SHORT TERM RENTALS
RULES & REGULATIONS
(Amended November 2023)

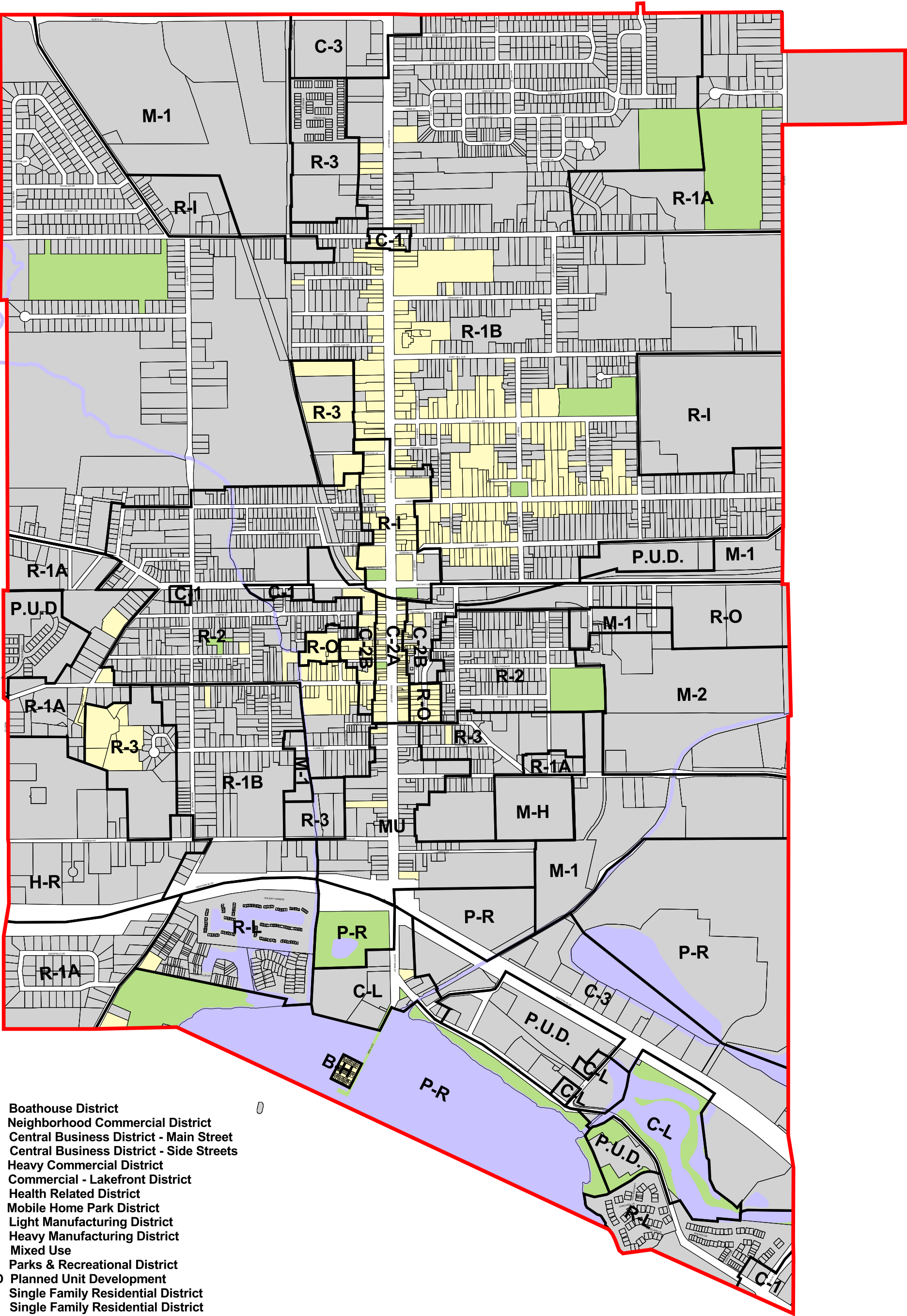
SHORT-TERM RENTAL

A complete residential dwelling unit that provides lodging without a host present for a period of less than 30 days. Such properties are regulated under §850-110.5.

Special Use Permit Provisions (§850-110.5)

Short-term rentals may be permitted in a complete residential dwelling unit in any zone district except those designated as R-1A and R-1B, provided that the Planning Commission determines that the following standards are met:

1. The Planning Commission finds that the proposed short-term rental is compatible with adjacent properties, will not adversely affect property values and is consistent with the objectives of the City Comprehensive Plan.
2. Within the R-2, R-3, and R-L zone districts, the short-term rental unit shall be the owner's primary residence, and may not be rented for more than a total of 60-days in each calendar year in increments of not less than 2 nights.
3. The rental unit shall be registered and periodically inspected in compliance with the City of Canandaigua Rental Inspection Program.
4. The proposed short-term rental shall be in compliance with Chapter 748, Housing Standards, of the Code of the City of Canandaigua and the New York State Uniform Fire Prevention and Building Code.
5. The use of the premises shall not require or involve any exterior alterations to the structure.
6. The short-term rental property shall not sell meals to persons other than overnight guests, unless otherwise permitted as a restaurant in compliance with § 850-83.
7. The short-term rental property shall not operate as a rooming house or boardinghouse as defined in § 850-12.
8. The short-term rental property shall be considered a lodging facility. Applicable county and local lodging tax shall be collected.
9. The owner shall maintain records identifying names and permanent addresses of all renters and the duration of their stay.
10. The Planning Commission shall determine, on a case-by-case basis, the maximum occupancy.
11. Off-street parking shall be provided. The Planning Commission may determine, on a case-by-case basis, what the parking requirement shall be, provided that such requirement shall not exceed the requirements of Schedule II.
12. The Special Use Permit shall be issued as a temporary, renewable permit, which shall expire three years from the date of approval. The permit shall be renewed administratively by the Zoning Officer upon verification of compliance with the original conditions of approval. If the Zoning Officer determines noncompliance or verifies written complaints received, the permit shall be forwarded to the Planning Commission for review in accordance with the procedure of the original review. The permit may be revocable at any time if the conditions of approval are not being met.



City of Canandaigua: Zoning & Historic Districts

Last Amendment: November 2021


Office of Development & Planning
Richard E. Brown, Director
2 North Main Street
Canandaigua, New York 14424
(585) 337-2180
www.CanandaiguaNewYork.gov

Re: STR license for 3271 County Road 16

Alan Lupton II <alupton@luptons.com>

Wed 2/7/2024 9:15 AM

To: cnadler@cnadlerlaw.com <cnadler@cnadlerlaw.com>; Jared Simpson <jsimpson@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>

 2 attachments (395 KB)

Short Term Rentals. Rules & Regulations.2023_202401300735096461.pdf; Zoning Map.2021.pdf;

Chris,

Felt like your proposed changes are a huge improvement and on the right track. I wanted to follow up on my specific situation. Is there resolution to my specific issues with 3271 County Road 16. Are we able to grandfather the permit at 16 people? Or are you wanting to issue the permit for the occupancy count under the new code, on the Town side only(16 - Bedroom 2, 3 & 7) and not worry about the head count on the City side as it is out of the Town's jurisdiction? Looking at Kristin's math under the newly proposed code for both the City and the Town, we would be allowed 26. We only want 16.

I have some comments on the NY Maintenance Code as it seems the Town is narrowly applying and interpreting the law relative to STR's:

1. In looking at other Town Code's, they do not mention the NY Maintenance Code.
2. In the introductory section of the code it explains that the code is to "establish minimum standards for the maintenance of existing buildings". It does not seem like kids sleeping in a bunkroom at a private residence is part of "building maintenance".
3. Section 101.2 indicates "The provisions of this code shall apply to all residential and non-residential structures." It seems arbitrary for the Town to include this in the STR Ordinance and enforces the provisions on STR's, but not at Onanda (owned and insured by the Town) and not on a residential property that is rented for more than 30 days. What issues happen in a bunkroom at 29 days that do not happen at 31 days? It seems the Town would be selectively applying the law.
4. I would also question if there is legal precedent for the application of this law against existing, non-conforming residential structures. To say the code enforcement officer can not get into a residential home to enforce the law but by virtue of a special use permit, they can now get into a home and enforce this provision, again seems like selective application of the law.
5. If you read the City of Canandaigua's STR code - they make no mention of the NY State Maintenance Code and use good judgement in establishing reasonable occupancy. See attached.
6. And section 404.3-5 of the code mention existing non-conforming use being grandfathered, same as the Town of Canandaigua's code.

It is my feeling that if the Town does not intend to interpret and universally enforce this code, they should not reference it in the STR code.

Thanks for your consideration and patience with this!

Alan Lupton
585-739-3015

<http://www.luptons.com>

Comprehensive manufacturing solutions: Molding, Casting, Machining, Stamping, Fabrication, Electronic/Cable Assembly and Prototyping

From: Alan Lupton II <alupton@luptons.com>

Sent: Thursday, February 1, 2024 3:12 PM

To: cnadler@cnadlerlaw.com <cnadler@cnadlerlaw.com>; jsimpson@townofcanandaigua.org <jsimpson@townofcanandaigua.org>

Subject: Fw: STR license for 3271 County Road 16

Alan Lupton
585-739-3015

<http://www.luptons.com>

Comprehensive manufacturing solutions: Molding, Casting, Machining, Stamping, Fabrication, Electronic/Cable Assembly and Prototyping

From: Kristin Smith <ksmith@townofcanandaigua.org>

Sent: Thursday, January 25, 2024 7:59 AM

To: Alan Lupton II <alupton@luptons.com>

Subject: Re: STR license for 3271 County Road 16

Hi Al,

The permit has been issued for 3271 Ct Rd 16 for a maximum occupancy of 13 people. The breakdown is as follows:

BR 1- 63 sq ft- 0 people

BR 2- 310 sq ft- 2 people

BR 3- 154 sq ft- 2 people
BR 4- 160 sq ft- 2 people
BR 5- 130 sq ft- 2 people
BR 6- 100 sq ft- 1 person
BR 7 (Bunk 1) 506 sq ft- 2 people
BR 8 (Bunk 2) 460 sq ft- 2 people
Maximum occupancy- 13 people

Kristin Smith
Zoning Officer
Town of Canandaigua
(585)394-1120 X2241
ksmith@townofcanandaigua.org

From: Kristin Smith <ksmith@townofcanandaigua.org>
Sent: Wednesday, January 24, 2024 1:19 PM
To: Alan Lupton II <alupton@luptons.com>
Subject: Re: STR license for 3271 County Road 16

Hi Al,

The requirement of a floor plan is referenced in the current code as follows:

- (f) The property containing the proposed short-term rental must have a minimum of one off-road parking space for every bedroom shown on the floor plan included with the application.
- (g) A sign indicating the maximum occupancy authorized by the Zoning Officer at time of permit. Notice the maximum occupancy for each short-term rental unit shall not exceed two people per bedroom shown on the applicant's floor plan. The posted sign shall state "no events are permitted on the premises resulting in the number of persons on the property greater than the maximum allowable occupancy of the short-term rental unit at any time during the short-term rental."

The following section is what prompts our need for bedroom dimensions:

- (j) Property must comply with most recent edition of the NYS Property Maintenance Code.

I didn't feel like I explained it fully over the phone.

Thank you!

Kristin Smith
Zoning Officer
Town of Canandaigua
(585)394-1120 X2241
ksmith@townofcanandaigua.org

From: Kristin Smith <ksmith@townofcanandaigua.org>
Sent: Wednesday, January 24, 2024 9:39 AM
To: Alan Lupton II <alupton@luptons.com>; Sarah Reynolds <sreynolds@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: Re: STR license for 3271 County Road 16

Hi Alan,

We have begun review of the floor plans you submitted on the 22nd and will reach out when the permit is ready for payment/pick up.

Thank you!

Kristin Smith
Zoning Officer
Town of Canandaigua
(585)394-1120 X2241
ksmith@townofcanandaigua.org

From: Alan Lupton II <alupton@luptons.com>
Sent: Wednesday, January 24, 2024 8:27 AM
To: Kristin Smith <ksmith@townofcanandaigua.org>; Sarah Reynolds <sreynolds@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: Re: STR license for 3271 County Road 16

Kris

Are you all set now? Can I stop by and pay for/pick up the permit?

Alan Lupton
585-739-3015

<http://www.luptons.com>

Comprehensive manufacturing solutions: Molding, Casting, Machining, Stamping, Fabrication, Electronic/Cable Assembly and Prototyping

From: Alan Lupton II <alupton@luptons.com>
Sent: Monday, January 22, 2024 6:35 PM
To: Kristin Smith <ksmith@townofcanandaigua.org>; Sarah Reynolds <sreynolds@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: Re: STR license for 3271 County Road 16

Figured out how to use our printer at home as a scanner - I uploaded it.

Alan Lupton
585-739-3015

<http://www.luptons.com>

Comprehensive manufacturing solutions: Molding, Casting, Machining, Stamping, Fabrication, Electronic/Cable Assembly and Prototyping

From: Kristin Smith <ksmith@townofcanandaigua.org>
Sent: Monday, January 22, 2024 4:01 PM
To: Alan Lupton II <alupton@luptons.com>; Sarah Reynolds <sreynolds@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: Re: STR license for 3271 County Road 16

You should be able to upload, but if you have any difficulty uploading you can email it to me.

Kristin Smith
Zoning Officer
Town of Canandaigua
(585)394-1120 X2241
ksmith@townofcanandaigua.org

From: Alan Lupton II <alupton@luptons.com>
Sent: Monday, January 22, 2024 3:44 PM
To: Kristin Smith <ksmith@townofcanandaigua.org>; Sarah Reynolds <sreynolds@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: Re: STR license for 3271 County Road 16

I am traveling tomorrow. I will send it back over on Wednesday via the portal. Is the application still open that it allows upload or should I just email it to you?

Alan Lupton
585-739-3015

<http://www.luptons.com>

Comprehensive manufacturing solutions: Molding, Casting, Machining, Stamping, Fabrication, Electronic/Cable Assembly and Prototyping

From: Kristin Smith <ksmith@townofcanandaigua.org>
Sent: Monday, January 22, 2024 3:09 PM
To: Alan Lupton II <alupton@luptons.com>; Sarah Reynolds <sreynolds@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: Re: STR license for 3271 County Road 16

Hi Alan,

We began the review of your application when it was submitted last Thursday, 1/18. The Town attorney advised us today that we are able to issue a Short Term Rental permit for the entire house. He did recommend that you contact the City of Canandaigua to let them know that you've applied for a STR permit with the Town, and to see what their requirements are, if any. We are waiting for the Town's insurance company to check the documents you provided. Can you please upload a new set of floor plans that show the dimensions of each bedroom in the home? We can't complete the review without these.

Kristin Smith
Zoning Officer
Town of Canandaigua
(585)394-1120 X2241
ksmith@townofcanandaigua.org

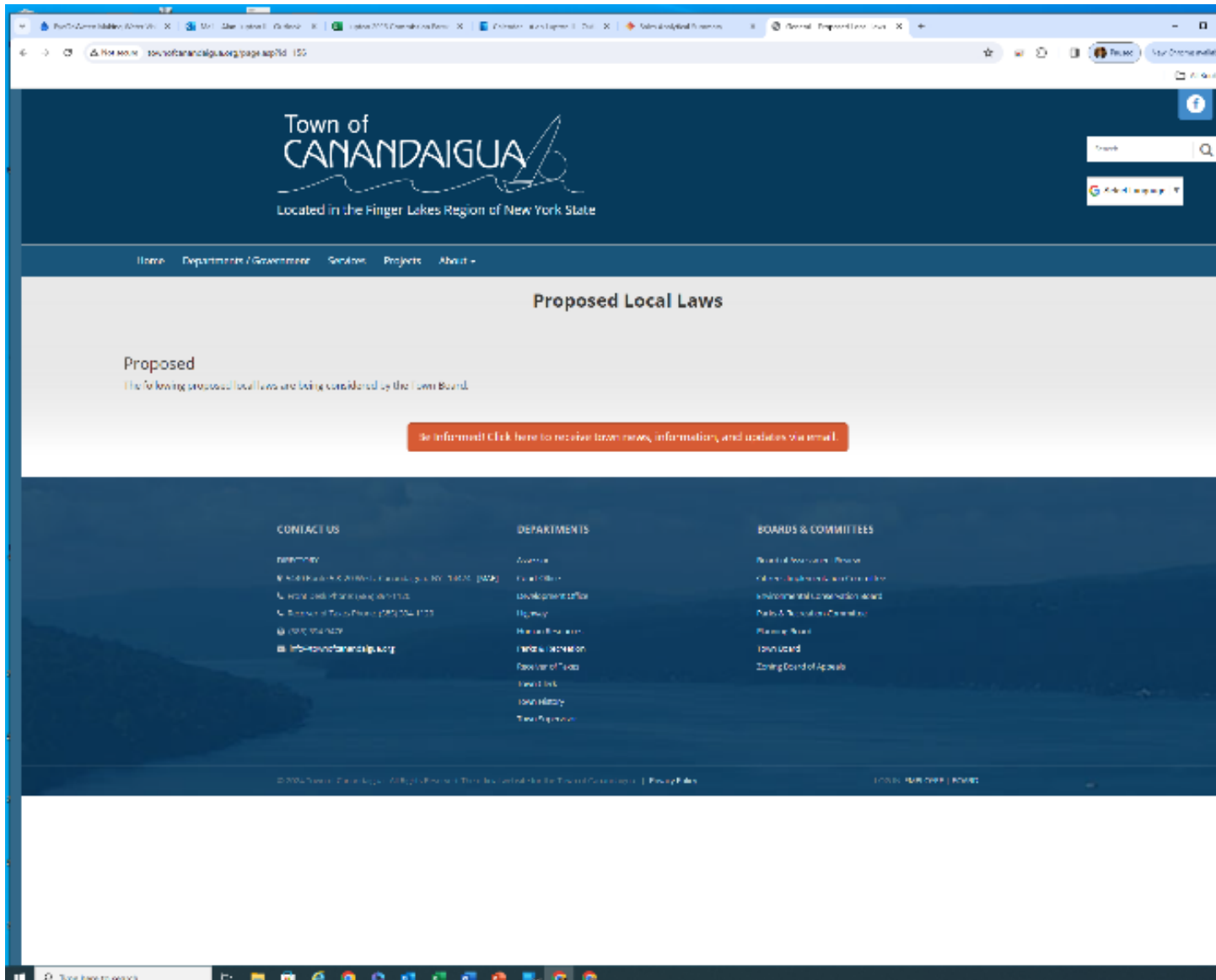
From: Alan Lupton II <alupton@luptons.com>
Sent: Monday, January 22, 2024 8:10 AM
To: Sarah Reynolds <sreynolds@townofcanandaigua.org>; Kristin Smith <ksmith@townofcanandaigua.org>
Cc: Jared Simpson <jsimpson@townofcanandaigua.org>
Subject: STR license for 3271 County Road 16

Kristen and Sarah,

Hope you had a good weekend other than those last two horrible minutes last night.

I received a couple additional bookings over the weekend and need to have my license renewed. I have been trying to get the license issued since mid-December when we discovered a new law had been put in place. According to the code, our use would fit under preexisting nonconformance. Let me know if you require any evidence of the same. We have many executed and completed contracts from the last several years. We can show them to you but will need to redact the private information of the tenant before making them part of the public record.

Also, as a point of information, the Town is still not providing proper notice to the citizens of Canandaigua. Per the Town's website, there are no new laws under consideration.



Please let me know what else you require for me to renew my license.

Alan Lupton
585-739-3015

Chapter 124. Noise

§ 124-1. Declaration of policy.

Problems concerning the disturbance of peace and quiet by noise from various activities are best solved by thoughtful discussion and cooperative agreements between affected parties. However, to resolve remaining problems of noise which is disturbing to others, it is the policy of the Village of Penn Yan to establish some standards and penalties. It is hereby declared to be the policy of the Village of Penn Yan to prevent certain noises that make it difficult for members of the public and residents within the privacy of their homes to be free from intrusive unwanted noise.

§ 124-2. Definitions.

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

AUDIBLE

Loud enough to be heard.

EXCESSIVE NOISE

Any loud or disagreeable sound which annoys, disturbs or endangers the comfort, repose, rest, health, peace or safety of one or more humans or animals of normal sensitivity.

MOTOR VEHICLE

Every device in, upon or by which any person or property is or may be transported or drawn which is propelled by any power other than muscular power, except vehicles which run only upon rails or tracks. This definition shall include but not be limited to trucks, buses, automobiles, vans, motorcycles, motor-driven cycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, minibikes, trail bikes and all other types of motorized recreational vehicles.

PERSON

Any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department of any group of individuals, or any officer or employee thereof.

SOUND PRODUCTION DEVICE

Any device which produces or reproduces sound, including, but not limited to, any radio receiver, television receiver, musical instrument, phonograph, boom box or sound-amplifying system.

§ 124-3. Sound production devices used for miscellaneous purposes.

No person shall use or operate or permit to be used or operated any sound production device creating a sound louder than is necessary for convenient hearing by the person or persons who are voluntary listeners thereto. It shall be prima facie evidence of a violation of this section if sound emanating from such sound production device is:

- A. Audible beyond the property line of the premises upon which it is being used between the hours of 10:00 p.m. and 6:59 a.m.; or
- B. Audible through the closed windows and doors of a dwelling located adjacent to the source of the sound between the hours of 7:00 a.m. and 9:59 p.m.;
- C. An exemption to Subsections **A** and **B** hereof is granted, provided that:
 - (1) Written permission has been given by the owner or renter of the premises beyond the property line of the dwelling adjacent to the source of the sound; or
 - (2) A schedule of operating hours is agreed upon in writing by the person creating the noise and the owners or renters of the premises beyond the property line or dwelling located adjacent to the source of the noise.
- D. Audible at a distance of 20 feet from such sound production device if operated from within a motor vehicle on a public street.

§ 124-3.1. Other excessive noise.

No person or persons shall create excessive noise by loud talking, yelling, singing or playing of musical instruments; banging on anything that creates excessive noise or creating excessive noise by any other means, including the operation of mechanical devices such as lawn mowers, chainsaws, leaf blowers, weed eaters or other power equipment between the hours of 10:00 p.m. and 6:59 a.m.

§ 124-4. Exemptions.

In addition to the exemptions provided for in § **124-3C(1)** and **(2)**, the provisions of this chapter shall not apply to:

- A. The production of music in connection with any parade authorized by the Board of Trustees of the Village of Penn Yan.
- B. Any musical performance upon a public place authorized by the Board of Trustees of the Village of Penn Yan.
- C. Any noise created during events sponsored by any church, school, local government entity, veterans' organization or organizations responsible for providing emergency services to the Village.
- D. Operation of machinery for snow removal or control during the winter season.

§ 124-5. Penalties for offenses.

Any person who shall violate any of the provisions of this chapter shall, upon conviction, be punishable as follows:

- A. First offense: fine of a minimum of \$25 and a maximum of \$100 or by imprisonment for a term of not more than 15 days, or by both such fine and imprisonment.
- B. Second offense: fine of a minimum of \$100 and a maximum of \$200 or by imprisonment for a term of not more than 15 days, or by both such fine and imprisonment.
- C. Third and subsequent offenses: fine of a minimum of \$250 and a maximum of \$500 or by imprisonment for a term of not more than 15 days, or by both such fine and imprisonment.

§ 124-6. Provisions to be cumulative.

The provisions of any section of this chapter shall not be deemed to modify or otherwise affect or to be in substitution for any provision of any other section of this chapter or other chapter of the Code of the Village of Penn Yan, but shall be cumulative thereto.

§ 124-7. Inconsistent provisions.

If the provisions of this chapter are inconsistent with any other provision in the Code of the Village of Penn Yan, or with any rule or regulation of any department, bureau or governmental agency of the Village of Penn Yan, the provisions of this chapter shall control.

§ 124-8. Severability.

Should any section, paragraph, sentence, clause or phrase in this chapter be declared unconstitutional or invalid for any reason, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this chapter are declared to be severable.

MEMO

TOWN OF CANANDAIGUA

To: Town Board
From: Town Planner
CC: Planning Board
Date: 12/28/2023
Re: Proposed amendments to Town Code Chapter 220-9.1 Short Term Rentals

COMMENTS: The Town Planner and Code Enforcement Officers have been working with the Ordinance Committee to recommend certain amendments to the Town's short term rental law in order to clarify short term rental regulations, application requirements, application processes. The recommended changes include but are not limited to:

- clarifications to the definition of a bedroom and eliminating "sleeping area" in order to simplify and clarify the review and application process for both property owners and the Development Office and to bring definitions in line with NY State Building code language.
- organizing the language of the code to clarify the requirements for the short term rental permit application. Previous application requirement language was distributed throughout the law and now all application requirements are located in one section within the law.
- Code Enforcement also recommended that language be clarified with regards to requirements for health and safety protection measures including requirements for smoke detectors, fire extinguishers, and other similar language.
- Adding required Planning Board review and approval for all short term rental permit applications for dwellings with six or more bedrooms

All proposed changes are illustrated in the "redline" version of the draft law.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

DRAFT

of Canandaigua

Local Law No. _____ of the year 20²⁴

A local law to amend town code chapter 220-9.1 Short Term Rentals
(Insert Title)

Be it enacted by the Town Board _____ of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua _____ as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

§ 220-9.1 Short-term rentals.

- A. Purpose. The purpose of this chapter is to regulate the use of property for short-term rentals within the Town. The provisions of this chapter are intended to mitigate any potential adverse effects and impacts of short-term rentals and to ensure such rentals do not create public safety hazards nor become disruptive to the quality of life for surrounding residents or the character of neighborhood where the property is located.
- B. Definitions. For purposes of this § **220-9.1**, the following words and phrases shall have the definitions and meanings set forth below. If any words or phrases are defined elsewhere in this code, the definitions set forth in this § **220-9.1B** shall control for purposes of short-term rentals.

ADJACENT PROPERTIES

- (1) Properties, parcels, lots or units situated near or next to, adjoining, contiguous or abutting the subject property, whether on the same side of the road, across the road or behind the subject property; and
- (2) When the subject property is a building consisting of multiple dwelling unit, such as an apartment building, that is a portion of a building containing multiple units on multiple floors with multiple units on each floor, this shall mean all units on the same floor as the subject property and also those units adjoining directly above or below the subject property.

APPLICATION

The application for a short-term rental permit.

BEDROOM

To be a valid bedroom, the bedroom shall have appropriate requirements as defined by New York State Property Maintenance Code (NYS PMC404).

COMPLETE APPLICATION

An application that has satisfied all of the submittal requirements set forth in this short-term rental ordinance and otherwise complies with all of the criteria required for the issuance of a short-term rental permit.

FLOOR PLAN

A level-by-level sketch of the structure with labeling of all enclosed spaces within the structure and dimensions of each bedroom.

LOCAL CONTACT

The owner or the owner's representative who is the local point of contact for any guest(s) for the duration of the guest(s) stay in the Short-Term Rental.

MAXIMUM OCCUPANCY

The maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom. Number of bedrooms must match what is shown on the applicant's floor plan and must be in compliance with information in the Real Property System database.

OWNER

The record titled owner of the residence for which a short-term rental permit is sought or has been issued. The owner may be a person or any form of business entity recognized by the State of New York. If the owner is a form of business entity, the business entity shall maintain current registration with New York State.

PERMIT HOLDER

The owner to whom a short-term rental special use permit has been issued through the Zoning Officer by the Planning Board. The Planning Board reserves the right to revoke the special use permit at any time for any reason including §220.9(I).

PROPERTY MANAGEMENT COMPANY

The owner's agent, including but not limited to rental platform, for renting the property, if any.

PROPERTY or SHORT-TERM RENTAL PROPERTY

All such parcels, residences or dwelling units used for short-term rental purposes. Recreational vehicles, travel trailers, sheds, garages, vehicles, tents, yurts and similar non-permanent structures are prohibited from use as a Short-Term Rental.

SHORT-TERM RENTAL

The rental of a dwelling unit for less than 30 days to a person.

TEMPORARY ACCESS EASEMENT

An easement granted to the owner to cross over the property of another when such access is necessary to provide entry to the property being rented.

TOWN

Town of Canandaigua, New York.

USE WITH CRITERIA

The land use approval process contained in the Town's Municipal Code; provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in the Municipal Code and the process and requirements set out in this short-term rental ordinance, the terms and conditions in the short-term rental ordinance shall control.

- C. Permit. To operate as a short-term rental, the property owner or owner's agent shall file an application with the Town of Canandaigua and be granted a special use permit to operate a short-term rental. The Town Board authorizes the Planning Board to grant a special use permit, in all zoning districts, for the operation of a short-term rental special use without the need for a public hearing. The Planning Board may authorize through its rules of procedure a special use permit to be issued by the Zoning Officer when the applicant demonstrates compliance with the requirements for application, §220.9-1 (C), with the following exceptions:

- (1) Special use permit applications to operate a short-term rental in any dwelling unit with six (6) or more bedrooms shall be reviewed and approved by the Planning Board in accordance with §220-35 and the Planning Board Rules of Procedure prior to the issuance of said permit.

- D. Requirements for application. Short-term rentals may be allowed in all zones unless otherwise restricted. The following information and documentation shall accompany the application and be provided to the Town of Canandaigua:

- (1) Completed application.
- (2) Street address for each unit.
- (3) The name, address, and contact information including a twenty-four-hour local contact phone number for the person at the property management company managing the property; or, if there is no property management company, the name, address and contact information, including a twenty-four-hour contact phone number for the property owner or owner's agent, and who may be contacted in the event of an emergency.
- (4) Floor plans for the dwelling with labels for all rooms including bedrooms. Details shown shall be in compliance with the Real Property Systems database.
- (5) Site plan/map of the property showing location of parking.
- (6) Permit applicant shall provide proof of septic system design capacity and provide a copy of the most recent inspection in accordance with Town Code chapter 202 Wastewater Treatment Systems, On-site, if applicable.
- (7) Evidence of Property Insurance and a Certificate of Liability Insurance indicating the premises is rated as a Short-Term Rental and acknowledgement that property owner will maintain such insurance throughout the Term of the Short-Term Rental permit.
- (8) A signed acknowledgement on the application, that the owner, property management company, and/or owner's agent, if any, have read all of the Town's regulations pertaining to the operation of a short-term rental. The owner shall sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations. If there is a property management company or other agent of the owner managing the short-term rental, the agent or an authorized officer of the property management company, or both, shall also sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations.
- (9) A signed acknowledgement by the applicant that the premises is in compliance relating to the following information:
 - (A) Smoke alarms shall be installed and maintained in accordance with the New York State Property Maintenance code and New York State Fire Code, as listed below.
 - a. On the ceiling or wall outside and in the immediate vicinity of bedrooms
 - b. In each bedroom.
 - c. In each story within a dwelling unit, including basements (excluding crawl spaces) and uninhabitable attics.
 - d. Smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms shall be replaced when they fail to respond to operability tests, or when they exceed 10 years from the date of manufacture, unless an earlier replacement is specified in the manufacturer's published instructions.
 - (B) Carbon monoxide detectors shall be installed and maintained as required by The Uniform Fire Prevention and Building Code of New York State.

- a. Carbon monoxide detection shall be installed outside of sleeping areas within 10 feet of the entrance to bedrooms in dwelling units that contain a fuel-burning appliance.
- (C) Emergency Evacuation Procedures and means of egress must be posted in each bedroom to be followed in the event of a fire or smoke condition or upon the activation of a fire or smoke-detecting or other alarm device.
- (D) Operable fire extinguishers including at least one fire extinguisher on each floor with one additional in the kitchen. Fire extinguishers shall be readily accessible and visible at all times.
- (E) The house number shall be visible from the street or road fronting the property.
- (F) Egress doors shall be operational and readily openable without the need for keys, special knowledge or effort except as allowed by NYS CODE.
- (G) A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the exterior.
- (H) The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application. The parking spaces must be located on durable surfaces, such as driveways, and cannot be on grassed or landscaped areas.
- (I) The owner must conspicuously post the following signage in a protected mounting in the public corridor, hallway, or lobby of the dwelling for which the permit was issued. This posting shall be in a common entrance. If no common entrance exists, then posting shall be made at the entrance of each dwelling unit.
 - a. the maximum occupancy authorized by the Zoning Officer at time of permit. Notice the maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom shown on the applicant's floor plan.
 - b. The posted sign shall state "no events are permitted on the premises resulting in the number of persons on the property greater than the maximum allowable occupancy of the short-term rental unit at any time during the short-term rental."
 - c. A sign in the short-term rental unit providing notice to any tenant the short-term rental is in a residential area in the Town of Canandaigua and that renters should be conscious of the residents in the neighborhood, all renters are subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct, littering is illegal, and all fires must be attended complying with any applicable burn bans or New York State regulations.
 - d. Address of the unit
 - e. Evacuation procedures to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke detecting or other alarm device.
 - f. Contact numbers for emergency services, Town of Canandaigua and a local contact.
- (J) All applicants and permit holders must provide Evidence of Property Insurance and a Certificate of Liability Insurance indicating the premises is rated as a Short-Term Rental and maintain such insurance throughout the Term of the Short-Term Rental permit.

- (K) The property shall comply with all applicable State and Local fire, building, health and safety laws, and all relevant local ordinances at all times.
- (L) No cooking facilities are permitted in the individual bedrooms or any other rooms where guests can sleep.
- (M) Permanent Exterior signs identifying the property as a Short-Term Rental are prohibited unless permitted separately.
- E. Effective date of permit. The permit shall be issued by the Zoning Inspector or Code Enforcement Officer upon receipt of a completed application as defined in § **220-9.1D**, Requirements for application.
- F. Fees. The application fee shall be set by resolution of the Town Board.
- G. Term of permit. The permit shall be valid for up to three year(s).
- (1) If the permit is not renewed before the expiration date of such permit, it is considered to be suspended until such time the renewal process is complete.
- (2) The owner shall amend the application at any time there is a change in circumstances that would require an update to the information submitted by the owner or property manager.
- H. Transferability. Special use permits issued for a short-term rental property are not transferable.
- I. Operating a short-term rental without a permit. Any person violating the provisions of this chapter by conducting short-term rental(s) without a valid permit shall be in violation of Town Code § 220.
- J. Discovery of an immediate health or life safety hazard. Upon the discovery of an immediate health or life safety hazard, the Code Enforcement Officer can suspend the short-term rental permit until the hazard is remedied.
- K. Grounds for Suspension or Revocation of Permit. Upon evidence of violation(s) of short-term rental usage with this section the Zoning Officer shall notify in writing the Planning Board. After holding a public hearing and providing notice of such hearing to the subject property's owner, the Planning Board may suspend or revoke a short-term rental special use permit. Suspended short-term rental special use permits shall be suspended for a period as deemed reasonable by the Planning Board. Revoked short-term rental special use permits shall be revoked and ineligible for approval for a period of not less than one year from the date of revocation. The Planning Board may suspend a short-term rental special use permit based on any of the following grounds:
- (1) Permit Holder has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of the property, or registration of property owner.
- (2) Permit Holder violated any provision of this section during the term of the short-term rental permit.
- (3) Permit Holder or any tenant violated any provisions of the Code of the Town of Canandaigua.
- (4) Permit Holder or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.
- (5) Any conduct on the premises, which is unreasonable under the circumstances, and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

- (6) Any conduct on the premises, which otherwise is not a permitted use in the zoning district.
- (7) Any conduct on the premises, involving parties or events or loud noises or when such activities result in two or more complaints from adjacent property owners relating to such activities.
- (8) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.
- (9) Permit Holder has failed to provide accommodations and access to the subject property for inspection, as may be required, by the Zoning Officer or Code Enforcement Officer of the Town.
- (10) Permit Holder or any tenants have exceeded the maximum occupancy limit of two (2) people per bedroom shown on the floor plan included with the application.
- (11) Permit Holder has allowed for occupancy greater than the capabilities of the on-site wastewater system, if applicable.
- (12) Permit Holder has not provided proof of pumping and satisfactory inspection of the on-site wastewater system, if applicable, by a qualified septic disposal firm within sixty days of request by Code Enforcement; or has violated Town of Canandaigua Code §202 Wastewater Treatment Systems, On-Site.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

DRAFT

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20²⁴ of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*)
on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such local (Elective Chief Executive Officer*)
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

(Seal)

Date: _____

§ 220-9.1 **Short-term rentals.**

A. ~~A. Purpose.~~ The purpose of this chapter is to regulate the use of property for short-term rentals within the Town. The provisions of this chapter are intended to mitigate any potential adverse effects and impacts of short-term rentals and to ensure such rentals do not create public safety hazards nor become disruptive to the quality of life for surrounding residents or the character of neighborhood where the property is located.

B. Definitions. For purposes of this § 220-9.1, the following words and phrases shall have the definitions and meanings set forth below. If any words or phrases are defined elsewhere in this code, the definitions set forth in this § 220-9.1A shall control for purposes of short-term rentals.

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ADJACENT PROPERTIES

- (1) Properties, parcels, lots or units situated near or next to, adjoining, contiguous or abutting the subject property, whether on the same side of the road, across the road or behind the subject property; and
- (2) When the subject property is a building consisting of multiple dwelling unit, such as an apartment building, that is a portion of a building containing multiple units on multiple floors with multiple units on each floor, this shall mean all units on the same floor as the subject property and also those units adjoining directly above or below the subject property.

APPLICATION

The application for a short-term rental permit.

BEDROOM

See ~~"Sleeping Area"~~ and ~~T~~ to be a valid bedroom, the bedroom shall have appropriate requirements as defined by ~~NYS building code~~ [New York State Property Maintenance Code \(NYS PMC404\)](#).

COMPLETE APPLICATION

An application that has satisfied all of the submittal requirements set forth in this short-term rental ordinance and otherwise complies with all of the criteria required for the issuance of a short-term rental permit.

FLOOR PLAN

A ~~level-by-level sketch plan~~ of the ~~property structure~~, with labeling of all enclosed spaces within the structure and dimensions of each ~~sleeping area~~ ~~bedroom~~.

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LOCAL CONTACT

The owner or the owner's representative who is the ~~local~~ point of contact for any guest(s) for the duration of the guest(s) stay in the Short-Term Rental.

MAXIMUM OCCUPANCY

~~a.~~ The maximum occupancy for each short-term rental unit shall not exceed two (2)

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people per bedroom. Number of bedrooms must match what is shown on the applicant's floor plan and must be in compliance with information in the Real Property System database.

OWNER

The record titled owner of the residence for which a short-term rental permit is sought or has been issued. The owner may be a person or any form of business entity recognized by the State of New York. If the owner is a form of business entity, the business entity shall maintain current registration with New York State.

PERMIT HOLDER

The owner to whom a short-term rental special use permit has been issued through the Zoning Officer by the Planning Board. The Planning Board reserves the right to revoke the special use permit at any time for any reason including §220.9(I).

PROPERTY MANAGEMENT COMPANY

The owner's agent, including but not limited to rental platform, for renting the property, if any.

PROPERTY or SHORT-TERM RENTAL PROPERTY

All such parcels, residences or dwelling units used for short-term rental purposes. Mobile homes, Recreational vehicles, ~~Vs, travel trailers, yards, sheds, garages, vehicles, tents, yurts and similar~~ non-permanent structures are prohibited from use as a Short-Term Rental.

SHORT-TERM RENTAL

The rental of a dwelling unit for less than 30 days to a person.

~~SLEEPING AREA~~

~~Any room that has a bed, bunk beds, daybed, or other furniture for sleeping, including, and without limitation, pull-out couch or futon or any area advertised for sleeping. To be a valid sleeping area the sleeping area shall have appropriate requirements as defined by NYS building code.~~

Commented [SR1]: For Ordinance Committee: Sleeping area should be removed. NYS code doesn't define it and it causes confusion for applicants when applying and for staff when reviewing. Permits are reviewed based on number of bedrooms and sleeping areas are NOT bedrooms.

TEMPORARY ACCESS EASEMENT

An easement granted to the owner to cross over the property of another when such access is necessary to provide entry to the property being rented.

Commented [MM2]: Sleeping area is not a truly well defined term in NYS Code.

TOWN

Town of Canandaigua, New York.

USE WITH CRITERIA

The land use approval process contained in the Town's Municipal Code; provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in the Municipal Code and the process and requirements set out in this short-term rental ordinance, the terms and conditions in the short-term rental ordinance shall control.

CB. Permit. To operate as a short-term rental, the property owner or owner's agent shall file an application with the Town of Canandaigua and be granted a special use permit to operate a short-

term rental. The Town Board authorizes the Planning Board to grant a special use permit, in all zoning districts, for the operation of a short-term rental special use without the need for a public hearing. The Planning Board may authorize through its rules of procedure a special use permit to be issued by the Zoning Officer when the applicant demonstrates compliance with the requirements for application, §220.9-1 (C), with the following exceptions:-

(1) Special use permit applications to operate a short-term rental in any dwelling unit with six (6) or more bedrooms shall be reviewed and approved by the Planning Board in accordance with §220-35 and the Planning Board Rules of Procedure prior to the issuance of said permit.

D. Requirements for application. Short-term rentals may be allowed in all zones unless otherwise restricted. The following information and documentation shall accompany the application and be provided to the Town of Canandaigua:

(1) Completed application.

(2) Street address for each unit.

(3) The name, address, and contact information including a twenty-four-hour local contact phone number for the person at the property management company managing the property; or, if there is no property management company, the name, address and contact information, including a twenty-four-hour contact phone number for the property owner or who may be the owner or owner's agent, and who may be contacted in the event of an emergency.

(4) Floor plans for the dwelling with labels for all rooms including bedrooms. Details shown shall be in compliance with the Real Property Systems database.

(5) Site plan/map of the property showing location of parking.

(6) Permit applicant shall provide proof of septic system design capacity and provide a copy of the most recent inspection in accordance with town code chapter 202 Wastewater Treatment Systems, On-site, if applicable.

(7) Evidence of Property Insurance and a Certificate of Liability Insurance indicating the premises is rated as a Short-Term Rental and acknowledgement that property owner will maintain such insurance throughout the Term of the Short-Term Rental permit.

(8) A signed acknowledgement on the application, that the owner, property management company, and/or owner's agent, if any, have read all of the Town's regulations pertaining to the operation of a short-term rental. The owner shall sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations. If there is a property management company or other agent of the owner managing the short-term rental, the agent or an authorized officer of the property management company, or both, shall also sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations.

(9) A signed acknowledgement by the applicant that the premises has the following information posted or is in compliance at the property relating to the following information:

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Commented [SR3]: Not sure we want to be reviewing septic designs. Can we instead request a copy of a recent (within the last 3 or 5 years) septic inspection?

Commented [MM4R3]: Only problem with that is the OTN do not require the inspector to verify the number of bedrooms.

(A) Smoke alarms shall be installed and maintained in accordance with the New York State Property Maintenance code and New York State Fire Code, as listed below.

- a. On the ceiling or wall outside and in the immediate vicinity of bedrooms
- b. In each bedroom.
- c. In each story within a dwelling unit, including basements (excluding crawl spaces) and uninhabitable attics.
- d. Smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms shall be replaced when they fail to respond to operability tests, or when they exceed 10 years from the date of manufacture, unless an earlier replacement is specified in the manufacturer's published instructions.

(B) Carbon monoxide detectors shall be installed and maintained as required by The Uniform Fire Prevention and Building Code of New York State.

- a. Carbon monoxide detection shall be installed outside of sleeping areas and within 10 feet of the entrance to bedrooms in dwelling units that contain a fuel-burning appliance.

~~(A)~~ Smoke Detectors including not less than one working smoke detector in each sleeping area. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms and one additional smoke detector on each floor. Smoke Detectors. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code. Smoke detectors and Carbon monoxide detectors shall be maintained in accordance with the New York State Uniform Fire Prevention and Building Code.

~~(B)(C)~~ Emergency Evacuation Procedures and means of egress must be posted in each sleeping area bedroom to be followed in the event of a fire or smoke condition or upon the activation of a fire or smoke-detecting or other alarm device.

~~(C)(D)~~ Operable fire extinguishers including at least one operable fire extinguisher on each floor with and one additional in the kitchen. Fire extinguishers shall be readily accessible and visible at all times.

~~(D)(E)~~ The house number shall be visible from the street or road fronting the property. located both at the end of the driveway and in the dwelling unit in a visible location where tenants will notice the address.

~~(F)~~ Exterior Egress doors shall be operational and readily openable without the need for keys, special knowledge or effort except as allowed by NYS CODE. and all passageway to exterior doors shall be clear and unobstructed.

~~(E)(G)~~ A safe, continuous, and unobstructed path of travel shall be provided from any

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point in a building or structure to the exterior.

(H) The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application. The parking spaces must be located on durable surfaces, ~~likesuch as~~ -driveways, and cannot be on grassed or landscaped areas.

~~(F)~~(I) The owner must conspicuously post the following signage in a protected mounting in the public corridor, hallway, or lobby of the dwelling for which the permit was issued. This posting shall be in a common entrance. If no common entrance exists, then posting shall be made at the entrance of each dwelling unit.

a. A sign indicating ~~Tthe~~ the maximum occupancy authorized by the Zoning Officer at time of permit. Notice the maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom shown on the applicant's floor plan.

~~a.b.~~ The posted sign shall state "no events are permitted on the premises resulting in the number of persons on the property greater than the maximum allowable occupancy of the short-term rental unit at any time during the short-term rental."

c. A sign in the short-term rental unit providing notice to any tenant the short-term rental is in a residential area in the Town of Canandaigua and that renters should be conscious of the residents in the neighborhood, all renters are subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct, littering is illegal, and all fires must be attended complying with any applicable burn bans or New York State regulations.

d. Address of the unit

e. Evacuation procedures to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke detecting or other alarm device.

~~b.f.~~ Contact numbers for emergency services, Town of Canandaigua Development Office and a local contact.

~~(G)~~(J) All applicants and permit holders must provide ~~Evidence of Property Insurance~~²² and a ~~Certificate of Liability Insurance~~²² indicating the premises is rated as a Short-Term Rental and maintain such insurance throughout the Term of the Short-Term Rental permit.

(K) ~~Property must comply with recent edition of the NYS Property Maintenance Code. The property shall comply with all applicable State and Local fire, building, health and safety laws, and all relevant local ordinances at all times.~~

(L) No cooking facilities are permitted in the individual bedrooms or any other rooms where guests can sleep.

~~(H)~~(M) Permanent Exterior signs identifying the property as a Short-Term Rental are prohibited unless permitted separately.

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Commented [SR5]: According to our own insurance company (Chris Hubler) this is not always required. He has been reviewing policies that we receive from applicants and stating whether they have the necessary coverage. The certificate is above and beyond, according to Chris. I would rather this be more loosely defined. Perhaps we require that they provide proof of property insurance that demonstrates coverage as a rental property. Or something similar.

~~DE~~. Effective date of permit. The permit shall be issued by the Zoning Inspector or Code Enforcement Officer upon receipt of a completed application as defined in § 220-9.1~~DE~~, Requirements for application.

~~EF~~. Fees. The application fee shall be set by resolution of the Town Board.

~~EG~~. Term of permit. The permit shall be valid for up to three year(s).

- (1) If the permit is not renewed before the expiration date of such permit, it is considered to be suspended until such time the renewal process is complete.
- (2) The owner shall amend the application at any time there is a change in circumstances that would require an update to the information submitted by the owner or property manager.

~~GH~~. Transferability. Special use permits issued for a short-term rental property are not transferable.

~~(H)~~ I. Operating a short-term rental without a permit. Any person violating the provisions of this chapter by conducting short-term rental(s) without a valid permit shall be in violation of Town Code § 220.

~~HJ~~. Discovery of an immediate health or life safety hazard. Upon the discovery of an immediate health or life safety hazard ~~to renters~~, the Code Enforcement Officer can suspend the short-term rental permit until the hazard is remedied.

~~IK~~. Grounds for Suspension or Revocation of Permit. Upon evidence of violation(s) of short-term rental usage with this section the Zoning Officer shall notify in writing the Planning Board. After holding a public hearing and providing notice of such hearing to the subject property's owner, the Planning Board may suspend or revoke a short-term rental special use permit. Suspended short-term rental special use permits shall be suspended for a period as deemed reasonable by the Planning Board. Revoked short-term rental special use permits shall be revoked and ineligible for approval for a period of not less than one year from the date of revocation. The Planning Board may suspend a short-term rental special use permit based on any of the following grounds:

- (1) Permit Holder has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of the property, or registration of property owner.
- (2) Permit Holder violated any provision of this section during the term of the short-term rental permit.
- (3) Permit Holder or any tenant violated any provisions of the Code of the Town of Canandaigua.
- (4) Permit Holder or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.
- (5) Any conduct on the premises, which is unreasonable under the circumstances, and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

Commented [SR6]: The ordinance committee does not support the permits being transferred when a property is sold. They prefer that a new owner be required to obtain a new permit. This was unanimous.

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- (6) Any conduct on the premises, which otherwise is not a permitted use in the zoning district.
- (7) Any conduct on the premises, involving parties or events or loud noises or when such activities result in two or more complaints from adjacent property owners relating to such activities.
- (8) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.
- (9) Permit Holder has failed to provide accommodations and access to the subject property for inspection, as may be required, by the Zoning Officer or Code Enforcement Officer of the Town.
- (10) Permit Holder or any tenants have exceeded the maximum occupancy limit of two (2) people per bedroom shown on the floor plan included with the application.
- (11) Permit Holder has allowed for occupancy greater than the capabilities of the on-site wastewater system, if applicable.
- (12) Permit Holder has not provided proof of pumping and satisfactory inspection of the on-site wastewater system, if applicable, by a qualified septic disposal firm within sixty days of request by Code Enforcement; or has violated Town of Canandaigua Code §202 Wastewater Treatment Systems, On-Site.

§ 220-9.1 **Short-term rentals.**

A. ~~A. Purpose.~~ The purpose of this chapter is to regulate the use of property for short-term rentals within the Town. The provisions of this chapter are intended to mitigate any potential adverse effects and impacts of short-term rentals and to ensure such rentals do not create public safety hazards nor become disruptive to the quality of life for surrounding residents or the character of neighborhood where the property is located.

B. Definitions. For purposes of this § 220-9.1, the following words and phrases shall have the definitions and meanings set forth below. If any words or phrases are defined elsewhere in this code, the definitions set forth in this § 220-9.1A shall control for purposes of short-term rentals.

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ADJACENT PROPERTIES

- (1) Properties, parcels, lots or units situated near or next to, adjoining, contiguous or abutting the subject property, whether on the same side of the road, across the road or behind the subject property; and
- (2) When the subject property is a building consisting of multiple dwelling unit, such as an apartment building, that is a portion of a building containing multiple units on multiple floors with multiple units on each floor, this shall mean all units on the same floor as the subject property and also those units adjoining directly above or below the subject property.

APPLICATION

The application for a short-term rental permit.

BEDROOM

See ~~"Sleeping Area"~~ and ~~T~~ to be a valid bedroom, the bedroom shall have appropriate requirements as defined by ~~NYS building code~~ [New York State Property Maintenance Code \(NYS PMC404\)](#).

COMPLETE APPLICATION

An application that has satisfied all of the submittal requirements set forth in this short-term rental ordinance and otherwise complies with all of the criteria required for the issuance of a short-term rental permit.

FLOOR PLAN

A ~~level-by-level sketch plan~~ of the ~~property structure~~, with labeling of all enclosed spaces within the structure and dimensions of each ~~sleeping area~~ ~~bedroom~~.

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LOCAL CONTACT

The owner or the owner's representative who is the ~~local~~ point of contact for any guest(s) for the duration of the guest(s) stay in the Short-Term Rental.

MAXIMUM OCCUPANCY

~~a.~~ The maximum occupancy for each short-term rental unit shall not exceed two (2)

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people per bedroom. Number of bedrooms must match what is shown on the applicant's floor plan and must be in compliance with information in the Real Property System database.

OWNER

The record titled owner of the residence for which a short-term rental permit is sought or has been issued. The owner may be a person or any form of business entity recognized by the State of New York. If the owner is a form of business entity, the business entity shall maintain current registration with New York State.

PERMIT HOLDER

The owner to whom a short-term rental special use permit has been issued through the Zoning Officer by the Planning Board. The Planning Board reserves the right to revoke the special use permit at any time for any reason including §220.9(I).

PROPERTY MANAGEMENT COMPANY

The owner's agent, including but not limited to rental platform, for renting the property, if any.

PROPERTY or SHORT-TERM RENTAL PROPERTY

All such parcels, residences or dwelling units used for short-term rental purposes. Mobile homes, Recreational vehicles, ~~Vs, travel trailers, yards, sheds, garages, vehicles, tents, yurts and similar~~ non-permanent structures are prohibited from use as a Short-Term Rental.

SHORT-TERM RENTAL

The rental of a dwelling unit for less than 30 days to a person.

~~SLEEPING AREA~~

~~Any room that has a bed, bunk beds, daybed, or other furniture for sleeping, including, and without limitation, pull-out couch or futon or any area advertised for sleeping. To be a valid sleeping area the sleeping area shall have appropriate requirements as defined by NYS building code.~~

Commented [SR1]: For Ordinance Committee: Sleeping area should be removed. NYS code doesn't define it and it causes confusion for applicants when applying and for staff when reviewing. Permits are reviewed based on number of bedrooms and sleeping areas are NOT bedrooms.

TEMPORARY ACCESS EASEMENT

An easement granted to the owner to cross over the property of another when such access is necessary to provide entry to the property being rented.

Commented [MM2]: Sleeping area is not a truly well defined term in NYS Code.

TOWN

Town of Canandaigua, New York.

USE WITH CRITERIA

The land use approval process contained in the Town's Municipal Code; provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in the Municipal Code and the process and requirements set out in this short-term rental ordinance, the terms and conditions in the short-term rental ordinance shall control.

CB. Permit. To operate as a short-term rental, the property owner or owner's agent shall file an application with the Town of Canandaigua and be granted a special use permit to operate a short-

term rental. The Town Board authorizes the Planning Board to grant a special use permit, in all zoning districts, for the operation of a short-term rental special use without the need for a public hearing. The Planning Board may authorize through its rules of procedure a special use permit to be issued by the Zoning Officer when the applicant demonstrates compliance with the requirements for application, §220.9-1 (C), with the following exceptions:-

(1) Special use permit applications to operate a short-term rental in any dwelling unit with six (6) or more bedrooms shall be reviewed and approved by the Planning Board in accordance with §220-35 and the Planning Board Rules of Procedure prior to the issuance of said permit.

D. Requirements for application. Short-term rentals may be allowed in all zones unless otherwise restricted. The following information and documentation shall accompany the application and be provided to the Town of Canandaigua:

(1) Completed application.

(2) Street address for each unit.

(3) The name, address, and contact information including a twenty-four-hour local contact phone number for the person at the property management company managing the property; or, if there is no property management company, the name, address and contact information, including a twenty-four-hour contact phone number for the property owner or who may be the owner or owner's agent, and who may be contacted in the event of an emergency.

(4) Floor plans for the dwelling with labels for all rooms including bedrooms. Details shown shall be in compliance with the Real Property Systems database.

(5) Site plan/map of the property showing location of parking.

(6) Permit applicant shall provide proof of septic system design capacity and provide a copy of the most recent inspection in accordance with town code chapter 202 Wastewater Treatment Systems, On-site, if applicable.

(7) Evidence of Property Insurance and a Certificate of Liability Insurance indicating the premises is rated as a Short-Term Rental and acknowledgement that property owner will maintain such insurance throughout the Term of the Short-Term Rental permit.

(8) A signed acknowledgement on the application, that the owner, property management company, and/or owner's agent, if any, have read all of the Town's regulations pertaining to the operation of a short-term rental. The owner shall sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations. If there is a property management company or other agent of the owner managing the short-term rental, the agent or an authorized officer of the property management company, or both, shall also sign the application certifying the accuracy of the information submitted and agreeing to comply with all regulations.

(9) A signed acknowledgement by the applicant that the premises has the following information posted or is in compliance at the property relating to the following information:

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Commented [SR3]: Not sure we want to be reviewing septic designs. Can we instead request a copy of a recent (within the last 3 or 5 years) septic inspection?

Commented [MM4R3]: Only problem with that is the OTN do not require the inspector to verify the number of bedrooms.

(A) Smoke alarms shall be installed and maintained in accordance with the New York State Property Maintenance code and New York State Fire Code, as listed below.

- a. On the ceiling or wall outside and in the immediate vicinity of bedrooms
- b. In each bedroom.
- c. In each story within a dwelling unit, including basements (excluding crawl spaces) and uninhabitable attics.
- d. Smoke alarms shall be tested and maintained in accordance with the manufacturer's instructions. Smoke alarms shall be replaced when they fail to respond to operability tests, or when they exceed 10 years from the date of manufacture, unless an earlier replacement is specified in the manufacturer's published instructions.

(B) Carbon monoxide detectors shall be installed and maintained as required by The Uniform Fire Prevention and Building Code of New York State.

- a. Carbon monoxide detection shall be installed outside of sleeping areas and within 10 feet of the entrance to bedrooms in dwelling units that contain a fuel-burning appliance.

~~(A)~~ Smoke Detectors including not less than one working smoke detector in each sleeping area. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms and one additional smoke detector on each floor. Smoke Detectors. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code. Smoke detectors and Carbon monoxide detectors shall be maintained in accordance with the New York State Uniform Fire Prevention and Building Code.

~~(B)(C)~~ Emergency Evacuation Procedures and means of egress must be posted in each sleeping area bedroom to be followed in the event of a fire or smoke condition or upon the activation of a fire or smoke-detecting or other alarm device.

~~(C)(D)~~ Operable fire extinguishers including at least one operable fire extinguisher on each floor with and one additional in the kitchen. Fire extinguishers shall be readily accessible and visible at all times.

~~(D)(E)~~ The house number shall be visible from the street or road fronting the property. located both at the end of the driveway and in the dwelling unit in a visible location where tenants will notice the address.

~~(F)~~ Exterior Egress doors shall be operational and readily openable without the need for keys, special knowledge or effort except as allowed by NYS CODE. and all passageway to exterior doors shall be clear and unobstructed.

~~(E)(G)~~ A safe, continuous, and unobstructed path of travel shall be provided from any

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point in a building or structure to the exterior.

(H) The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included with the application. The parking spaces must be located on durable surfaces, ~~likesuch as~~ -driveways, and cannot be on grassed or landscaped areas.

~~(F)~~(I) The owner must conspicuously post the following signage in a protected mounting in the public corridor, hallway, or lobby of the dwelling for which the permit was issued. This posting shall be in a common entrance. If no common entrance exists, then posting shall be made at the entrance of each dwelling unit.

a. A sign indicating ~~Tthe~~ the maximum occupancy authorized by the Zoning Officer at time of permit. Notice the maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom shown on the applicant's floor plan.

~~a.b.~~ The posted sign shall state "no events are permitted on the premises resulting in the number of persons on the property greater than the maximum allowable occupancy of the short-term rental unit at any time during the short-term rental."

c. A sign in the short-term rental unit providing notice to any tenant the short-term rental is in a residential area in the Town of Canandaigua and that renters should be conscious of the residents in the neighborhood, all renters are subject to New York Penal Law §240.20 or any successor statute regarding disorderly conduct, littering is illegal, and all fires must be attended complying with any applicable burn bans or New York State regulations.

d. Address of the unit

e. Evacuation procedures to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke detecting or other alarm device.

~~b.f.~~ Contact numbers for emergency services, Town of Canandaigua ~~Development Office~~ and a local contact.

~~(G)~~(J) All applicants and permit holders must provide ~~Evidence of Property Insurance~~²² and a ~~Certificate of Liability Insurance~~²² indicating the premises is rated as a Short-Term Rental and maintain such insurance throughout the Term of the Short-Term Rental permit.

(K) ~~Property must comply with recent edition of the NYS Property Maintenance Code. The property shall comply with all applicable State and Local fire, building, health and safety laws, and all relevant local ordinances at all times.~~

(L) No cooking facilities are permitted in the individual bedrooms or any other rooms where guests can sleep.

~~(H)~~(M) Permanent Exterior signs identifying the property as a Short-Term Rental are prohibited unless permitted separately.

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Commented [SR5]: According to our own insurance company (Chris Hubler) this is not always required. He has been reviewing policies that we receive from applicants and stating whether they have the necessary coverage. The certificate is above and beyond, according to Chris. I would rather this be more loosely defined. Perhaps we require that they provide proof of property insurance that demonstrates coverage as a rental property. Or something similar.

~~DE~~. Effective date of permit. The permit shall be issued by the Zoning Inspector or Code Enforcement Officer upon receipt of a completed application as defined in § 220-9.1~~DE~~, Requirements for application.

~~EF~~. Fees. The application fee shall be set by resolution of the Town Board.

~~EG~~. Term of permit. The permit shall be valid for up to three year(s).

- (1) If the permit is not renewed before the expiration date of such permit, it is considered to be suspended until such time the renewal process is complete.
- (2) The owner shall amend the application at any time there is a change in circumstances that would require an update to the information submitted by the owner or property manager.

~~GH~~. Transferability. Special use permits issued for a short-term rental property are not transferable.

~~(H)~~ I. Operating a short-term rental without a permit. Any person violating the provisions of this chapter by conducting short-term rental(s) without a valid permit shall be in violation of Town Code § 220.

~~HJ~~. Discovery of an immediate health or life safety hazard. Upon the discovery of an immediate health or life safety hazard ~~to renters~~, the Code Enforcement Officer can suspend the short-term rental permit until the hazard is remedied.

~~IK~~. Grounds for Suspension or Revocation of Permit. Upon evidence of violation(s) of short-term rental usage with this section the Zoning Officer shall notify in writing the Planning Board. After holding a public hearing and providing notice of such hearing to the subject property's owner, the Planning Board may suspend or revoke a short-term rental special use permit. Suspended short-term rental special use permits shall be suspended for a period as deemed reasonable by the Planning Board. Revoked short-term rental special use permits shall be revoked and ineligible for approval for a period of not less than one year from the date of revocation. The Planning Board may suspend a short-term rental special use permit based on any of the following grounds:

- (1) Permit Holder has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of the property, or registration of property owner.
- (2) Permit Holder violated any provision of this section during the term of the short-term rental permit.
- (3) Permit Holder or any tenant violated any provisions of the Code of the Town of Canandaigua.
- (4) Permit Holder or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.
- (5) Any conduct on the premises, which is unreasonable under the circumstances, and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

Commented [SR6]: The ordinance committee does not support the permits being transferred when a property is sold. They prefer that a new owner be required to obtain a new permit. This was unanimous.

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- (6) Any conduct on the premises, which otherwise is not a permitted use in the zoning district.
- (7) Any conduct on the premises, involving parties or events or loud noises or when such activities result in two or more complaints from adjacent property owners relating to such activities.
- (8) Removal or disrepair of any safety devices such as, but not limited to, smoke and carbon monoxide detectors, fire extinguishers and egresses.
- (9) Permit Holder has failed to provide accommodations and access to the subject property for inspection, as may be required, by the Zoning Officer or Code Enforcement Officer of the Town.
- (10) Permit Holder or any tenants have exceeded the maximum occupancy limit of two (2) people per bedroom shown on the floor plan included with the application.
- (11) Permit Holder has allowed for occupancy greater than the capabilities of the on-site wastewater system, if applicable.
- (12) Permit Holder has not provided proof of pumping and satisfactory inspection of the on-site wastewater system, if applicable, by a qualified septic disposal firm within sixty days of request by Code Enforcement; or has violated Town of Canandaigua Code §202 Wastewater Treatment Systems, On-Site.

3. Consider intent of existing zoning districts when allowing use of Incentive Zoning. Incentive zoning is an important tool, though it can also undermine other goals embodied in existing zoning districts.

Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

19-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend Town of Canandaigua Town Code Chapter 220 (Zoning) section 220-9.1 on short-term rentals, in order to clarify definitions and application requirements/processes.			

<https://ontariocountyny.gov/DocumentCenter/View/41965/19-2024-LL-T-Canandaigua-STRs>

Text Amendment regarding short-term rentals was previously referred in May 2023 as 84-2023. Current referral adds new recommended changes taking into account some of the provided CRC comments from May 2023 (does special use permit expire upon transfer of property, what penalties apply if not met). Town Board has not yet voted on these current recommended changes.

The Town Planner and Code Enforcement Officers have been working with the Ordinance Committee to recommend certain amendments to the Town's short term rental law in order to clarify short term rental regulations, application requirements, application processes. The recommended changes include but are not limited to:

- clarifications to the definition of a bedroom and eliminating "sleeping area" in order to simplify and clarify the review and application process for both property owners and the Development Office and to bring definitions in line with NY State Building code language.
- organizing the language of the code to clarify the requirements for the short-term rental permit application. Previous application requirement language was distributed throughout the law and now all application requirements are located in one section within the law.

- Code Enforcement also recommended that language be clarified with regards to requirements for health and safety protection measures including requirements for smoke detectors, fire extinguishers, and other similar language.
- Adding required Planning Board review and approval for all short-term rental permit applications for dwellings with six or more bedrooms.

All proposed changes are illustrated in the “redline” version of the draft law. They include changes to the “purpose” paragraph on short-term rentals, and changes to the definitions of: bedroom, floor plan, local contact, maximum occupancy, and removal of the sleeping area definition. Also, multiple changes to the “use with criteria” (special use permit exception and requirements for application).

Comments

1. Short-term rental regulations are authorized by NYS statute as business regulations for purpose of general health, safety, and welfare. Regulation of housing tenure is not a permissible zoning authority. The Town of Canandaigua’s short term rental regulations should be moved from the zoning chapter to a new chapter. This will also necessitate adding to the short-term rental chapter relevant portions of application, review, and enforcement regulations related to the current special use permit process. Town of Canandaigua is commended for continuing to amend their Short-term Rental regulations to address difficulties encountered.
2. Add design to reference to on-site wastewater system capabilities to clarify occupancy limit without need to document actual failure of system.

Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

20.0-2024	Town of Naples	Planning Board	NY Naples I, LLC	Special Use Permit –1
204.00-1-29.110	Special Use Permit(s) and Site Plan for the construction of a 4.55 MW solar farm (2 separate arrays each with their own access road), an 8’ high fence, and associated improvements on a 41.7-acre vacant parcel at 6487 CR21, on the corner of Edson Rd. and CR21, in the Town of Naples.			

<https://ontariocountyny.gov/DocumentCenter/View/42080/200-2024-and-201-2024-Aerial-SOLAR>

<https://ontariocountyny.gov/DocumentCenter/View/42082/200-2024-and-201-2024-Full-Plans-SOLAR>

TOWN OF CANANDAIGUA
TOWN CODE CHAPTER 201
SHORT TERM RENTALS

201-1. Purpose.

The purpose of this Chapter is to regulate the use of property in the Town of Canandaigua for short term rentals. The provisions of this Chapter are intended to mitigate potential adverse effects and impacts caused by short-term rentals and to ensure that such short-term rentals do not cause safety hazards nor become disruptive to the quality of life for surrounding residents and to preserve the health, safety, and welfare of the community.

201-2. Applicability.

The provisions of this Chapter shall apply to the entirety of the Town of Canandaigua. Nothing herein shall replace or supersede any other law or regulation, including, but not limited to, Uniform Building Code and Uniform, health laws, or zoning regulations.

201-3. Permit Required.

Operation of a short-term rental ("STR") in the Town of Canandaigua shall require a Short-Term Rental Permit ("STR Permit") issued by the Zoning Officer. Operation, for purposes of this chapter, shall mean the rental of a dwelling unit or dwelling units for less than 30 days, and shall include the marketing, listing for rent, or other means of offering and/or making available of, said dwelling unit or dwelling units.

201-4. Authority to Issue STR Permit.

Any Zoning Officer or Code Enforcement Officer of the Town of Canandaigua ("Zoning Officer") is hereby authorized to issue, revoke, suspend, modify, or renew a STR Permit, and to otherwise carry out the provisions of this Chapter, including but not limited to enforcement and investigation of complaints.

201-5. Application for STR Permit.

In order to obtain a STR Permit an applicant must submit the following to the Zoning Officer in a manner specified by, and acceptable to, the Zoning Officer:

A. Completed Application Form, including

1. Name and contact information of property owner
2. Name and contact information of property manager, if any

3. Name and contact information for a 24-hour local contact.

- B. Floor plans showing entire premises, including dimensions, and showing all bathrooms, sleeping areas, and other areas, shown in compliance with the Real Property Systems database used by the Town.
- C. Site plan/map showing entire property, including parking, septic system, and any other relevant information.
- D. Proof of septic system capacity and a copy of most recent inspection in accordance with Town Code Chapter 202, if applicable.
- E. Evidence of property and liability insurance indicating that the property is insured and rated as a short-term rental, acceptable to the Zoning Officer, and a signed acknowledgement that the property will remain insured as a short-term rental throughout the term of the STR Permit and any subsequent renewals thereof.
- F. Signed acknowledgement that the property owner, property manager, and any agent thereof, has read the Town's short-term rental regulations and will comply with same.
- G. Proof of compliance with all operating requirements.
- H. Consent for Access. Owner shall sign a consent for Zoning Officer to access any or all portions of the property for purposes of inspection to ensure compliance with the provisions of this Chapter.

201-7. Operating Requirements.

Any short-term rental in the Town of Canandaigua shall comply with the following:

- A. Smoke alarms shall be installed and maintained in accordance with NYS Property Maintenance Code, Uniform Building Code, and Uniform Fire Prevention Code, including but not limited to:
 - 1. On ceiling or wall in the immediate vicinity of all bedrooms and/or sleeping areas.
 - 2. In each sleeping area and/or bedroom.
 - 3. At least one shall be installed on each floor, including basements.
- B. Carbon monoxide detectors shall be installed and maintained in accordance with Uniform Fire Prevention Code and Uniform Building Code including but not limited to the immediate vicinity of all sleeping areas in dwelling units that contain a fuel burning device.

- C. Emergency evacuation and means of egress to be used in the event of fire or other emergency must be listed in each bedroom or sleeping area.
- D. Operable fire extinguishers shall be available on each floor, and shall include at least one in each kitchen. Fire extinguishers shall be operable, readily accessible, and visible at all times.
- E. The house number shall be visible from the street or road frontage.
- F. Egress doors shall be operational, accessible, and readily operable without the need for keys, special knowledge, codes, or special effort except as allowed by Uniform Code.
- G. A safe, continuous, and unobstructed path of travel shall be provided from any point in a building or structure to the exterior.
- H. Parking. Each STR property shall provide a minimum of 1 parking space for each 3 occupants of the property.
- I. The property must conspicuously post the following signage in a protected mounting in a common entryway. If no common entryway exists the posting shall be made at the entrance of each dwelling unit:
 - 1. Maximum occupancy authorized by the Zoning Officer
 - 2. Statement that no events are permitted
 - 3. A notice that occupants are not permitted to disturb neighbors and that all renters are subject to this Chapter and NYS Penal Law 240.20 or any successor statute regarding disorderly conduct, littering is illegal, and all fires must be attended complying with applicable burn bans or NYS regulations.
 - 4. Address of the property.
 - 5. Evacuation procedures to be followed in the event of a fire or other emergency.
 - 6. Contact numbers for emergency services and property's 24-hour local contact.
- J. All STRs must be, and remain, fully insured as short-term rentals.
- K. The STR properties shall remain in full compliance with all applicable State and local fire, building, health, and safety laws, and all relevant local ordinances at all times.
- L. No cooking facilities are permitted in individual bedrooms or any other rooms where guests can sleep.

M. Permanent exterior signs identifying the property as a short-term rental are prohibited unless permitted separately.

N. STRs must pay all applicable sales tax as well as any occupancy or lodging taxes.

P. Maximum Occupancy. The Zoning Officer shall establish the maximum occupancy in accordance with Uniform Code.

Q. No STR shall cause a disturbance or nuisance to neighbors, nearby properties, or the community if such disturbance or nuisance is greater than would be caused by a similar property not used for short-term rental.

201-8. Miscellaneous.

A. Fees. Town Board shall establish by resolution or fee schedule the amount to be charged for a STR Permit.

B. Term. STR Permits shall be valid for three years from the date of issuance, unless otherwise suspended or revoked.

C. Renewal. STR Permits may be renewed by the Zoning Officer upon submission of an acceptable renewal application.

D. Transferability. STR Permits are not transferable.

201-9. Enforcement.

A. The Zoning Officer shall investigate all reasonable complaints of lack of compliance with this Chapter.

B. The Zoning Officer is authorized to issue a notice of violation and/or order to remedy in the event of lack of compliance with this Chapter.

C. The Zoning Officer is authorized to suspend a STR Permit if lack of compliance with this Chapter is habitual, ongoing, or poses a risk to the health, safety, or general welfare of the community.

D. The Zoning Officer may commence proceedings in any court of competent jurisdiction to enforce the provisions of this Chapter.

201-10. Penalties.

Any person who violates the terms of this Chapter shall be guilty of a misdemeanor. Violations of this Chapter shall be punishable by a minimum fine of \$500 and a maximum fine of \$1000 per day. Fines issued shall be a lien against the property.

ATTACHMENT 2



LAW OFFICES OF
CHRISTIAN M. NADLER

****Privileged and Confidential****

TO: Town of Canandaigua Town Board

FROM: Chris Nadler, Town Attorney

DATE: December 19, 2023

RE: Adoption of Local Law # 9 of 2022 (amending Town Code to allow incentive zoning in all districts)

On December 14, 2023 Town Planner Sarah Reynolds received an email from Ontario County Planning Board indicating that they have no record of the above-referenced local law being referred to them as required by NYS General Municipal Law § 239-m, and requesting that the Town see if we have any such record. To date, no record of a referral has been located.

The Town Board adopted Resolution # 2022-273 on November 21, 2022 which issued a SEQR negative declaration and adopted Local Law # 9 of 2022. The Local Law was filed at the NYS Secretary of State's Office on December 2, 2022, and is now Town Code § 220-31, and allows incentive zoning in all districts.

My understanding of the law is that failure to make a County Planning Board referral on a zoning amendment is a jurisdictional defect. As a jurisdictional defect, any challenge to the local law would not be made by an Article 78 lawsuit, but rather a lawsuit seeking a declaratory judgment. This procedural difference is significant because an Article 78 lawsuit has a four month statute of limitations, and a declaratory judgment lawsuit has a six year statute of limitations.

I have looked through all OCPB meeting minutes for 2022 and the second half of 2021 but did not see any mention of what eventually became Local Law # 9. Unfortunately, I only saw on zoning text amendment on OCPB's agendas during 2022, which I believe became Local Law # 8 of 2022. This leaves Local Law # 6 of 2022 (creating the Agricultural Protection Overlay District) and Local Law # 10 of 2022 (creating the Scenic Viewshed Overlay District) also vulnerable to challenge as jurisdictionally defective for the next 4+ years.

At this point I think we need to consider re-adopting each of the local laws described in the preceding paragraph. This will involve referral to OCPB, public hearings, and new local laws adopted with new resolutions. Unless instructed otherwise I will work with

Town Staff to get these 3 local laws on your January agenda to set 3 public hearings at your February Town Board meeting. Depending on when the referral to OCPB is made, you may be able to re-adopt the 3 local laws at your February Town Board meeting.

Please call me if you have any questions or if you would like to discuss this situation.

NADLER.

MEMO FOR ORDINANCE/TOWN BOARD

MAY 6, 2022

Re: Proposed Local Law (amendment to Incentive Zoning) §220-31

PURPOSE

The Town Board has the authority to rezone parcels in the Town of Canandaigua when the current zoning limits potential use either as identified by the owner of the parcel or the Town of Canandaigua.

The Incentive Zoning District, which specifically allows the Town Board to rezone a parcel to Incentive Zoning when the Town Board determines a benefit exists for the rezoning; however, it as it is currently regulated by Town Code is limited for use to the following zoning districts: R-1-30, R-1-20, MR, NC, CC, RB-1, LI, and I.

R-1-30:	Residential Single Family District
R-1-20:	Residential Single Family District
MR:	Multiple Residential District
NC:	Neighborhood Commercial District
CC:	Community Commercial District
RB-1:	Restricted Business District
LI:	Limited Industrial District
I:	Industrial District

The Town of Canandaigua has grown since the Incentive Zoning District was last updated and now includes zoning districts like SCR-1, RLD, Form Based Code, Mixed Use, and other zoning districts not listed in the Town Code currently as applicable to Incentive Zoning.

This proposal would allow the Town Board to amend the Town Code to enable the Town Board to utilize Incentive Zoning in any Town of Canandaigua zoning district, and would further define applicable options for cash payment in lieu if the Town Board determines such a payment is applicable.

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
[HTTPS://DOS.NY.GOV](https://dos.ny.gov)

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

December 7, 2022

CANANDAIGUA TOWN CLERK

DEC 12 2022

RECEIVED

Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, NY 14424

RE: Town of Canandaigua, Local Law 9 & 10 2022, filed on 12/2/2022

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492

✓ LL#9 - Amend Sect 220-31
Incentive Zoning
LL#10 - Amend Sect 220-33 Scenic
Viewshed Overlay



**Department
of State**

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1791

November 29, 2022

NYS Department of State
Division of Corporations, State Records and
Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231

RE: Filing of Local Laws 9 and 10 of 2022

To Whom It May Concern:

Enclosed is a certified original of Local Laws 9 and 10 of 2022 that were adopted by the Canandaigua Town Board on Monday, October 21, 2022:

- ✓ LL 9 of 2022: Amendments to Chapter 220 (Zoning) Section 220-31 Incentive Zoning District
- LL 10 of 2022: Amendments to Chapter 220 (Zoning) Section 220-33 Scenic Viewshed Overlay District

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jean Chrisman
Town Clerk

Encs.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua

Local Law No. 9 of the year 2022

A local law Amendments to Chapter 220 (Zoning) Section 220-31 Incentive Zoning District
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Attachment A
Local Law 9 of 2022

§ 220-31 Incentive Zoning District.

- A. Intent. The Town Board finds that in addition to existing powers and authorities to regulate by planning and zoning, including authorization to provide for the granting of incentives or bonuses pursuant to other enabling law, the Town Board is hereby empowered, as part of Chapter 220 of the Town Code, to provide for a system of zoning incentives, or bonuses, as the Town Board deems necessary and appropriate consistent with the purposes and conditions set forth in this section.
- B. Purpose. The purpose of these regulations of incentive, or bonus, zoning shall be to advance the Town's specific physical, cultural and social policies in accordance with the Town's Comprehensive Plan and in coordination with other community planning mechanisms or land use techniques. The system of zoning incentives or bonuses shall be in accordance with the meaning of § 261-b of Article 16 of the New York Town Law, as may be amended from time to time.
- C. Authority. This authority may be used by the Town Board to assist in implementing the following planning objectives:
- (1) To protect highly valued ecological resources, geological features and environmentally sensitive areas.
 - (2) To protect active farmland operations.
 - (3) To preserve greenways and important open spaces, and provide access to trail corridors.
 - (4) To preserve historic and/or archaeological resources.
 - (5) To protect high-quality scenic resources.
 - (6) To secure important public works improvements which would not otherwise be provided to planned development areas of the community and which are in excess of that necessitated by immediate project demand.
 - (7) To provide a more desirable environment than what would be possible throughout the strict application of existing zoning regulations.
- D. Districts designated for incentives. The Town Board shall have the authority to designate incentives in all zoning districts of the Town of Canandaigua.
- E. Permitted incentives. The Town Board may grant the following specific incentives:
- (1) Increase in dwelling unit density for a site.
 - (2) Changes in lot area and dimensional requirements.
 - (3) Changes of use.
- F. Community benefits or amenities. The following community benefits or amenities may, at the discretion of the Town Board, be accepted in exchange for an incentive identified in

Subsection E above. These community benefits may be either on or off the site of the subject application, may involve one or more parcels of land and may be situated in any district, unless otherwise specifically limited in this section and will be in addition to any mandated requirements pursuant to other provisions of the Town of Canandaigua Code and any other applicable law or regulation.

- (1) Agricultural conservation, open space, scenic, ecological, historic or other permanent conservation easements.
- (2) Donation of land in fee simple for either conservation or community benefit purposes.
- (3) Construction of recreation amenities, serving a Town-wide need, accessible to the general public, above and beyond that required elsewhere in the Town Code.
- (4) Construction or improvement to public work facilities which are above and beyond that required to mitigate proposed impacts in accordance with the Town Code and the State Environmental Quality Review (SEQR) regulations.
- (5) Preservation and improvement of historical or cultural sites or structures.
- (6) Provision of shared driveways, cross-access easements or access and service streets, internal circulation systems or interconnected parking.
- (7) Other facilities or benefits to the residents of the community, as determined by the Town Board.
- (8) Any other combination of the above-listed community benefits or amenities.

G. Criteria for approval. Applications for incentives in exchange for amenities shall be submitted in writing to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be provided by the applicant:

- (1) A sketch plan of the proposed amenity.
- (2) The value of the proposed amenity.
- (3) Narrative.
 - (a) A narrative which:
 - [1] Describes the benefits to be provided to the community by the proposed amenity.
 - [2] Provides preliminary indication that there are adequate sanitary sewers, water, transportation, waste disposal and fire protection facilities within the existing zoning district which the proposal is located in order to accommodate additional demands, if any.
 - [3] Explains how the proposed amenity promotes implementation of physical, environmental or cultural policies articulated in proposed plans.
 - [4] Describes the requested incentive and its value.
 - [5] Describes the manner in which any common areas are to be owned and maintained, including open space, streets, lighting and other considerations relevant to the proposal.
 - [6] Describes any covenants, grants of easement or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.

- (b) The Town Board, in its discretion, may waive any or all of the above listed submission requirements.

H. Initial review and consideration. All applications for incentive zoning shall commence with a written proposal to the Town Board which sets forth the criteria listed in Subsection G above. The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration.

(1) Sketch plan requirements.

- (a) The sketch plan shall show how the site will be developed, with the amenity, if it is on-site, and the incentive being requested. In addition to meeting the requirements of the applicable sections of the Town Code, the plan shall also meet the requirements of Article VII, Site Plan Regulations, §§ 220-64 through 220-72, and/or Chapter 174, Subdivision of Land, and show existing development, property owners' names and tax account numbers for all property within 200 feet of the property lines of the proposed project or such other distance as may be specified by the Town Board.
- (b) If the incentive will result in a structural height increase, the applicant shall submit an elevation drawing, at a scale of 1/4 inch equals one foot, which shows the height permitted by district regulations, the proposed additional height, the distance to other principal structures on site and on adjacent properties and their heights, as well as property line locations.
- (c) If the incentive will result in a setback or open space reduction, the drawing shall show this reduction in relation to the principal structure on site and on adjacent properties, as well as property lines.
- (d) The Town Board, in its discretion, may waive any or all of the above-listed sketch plan requirements. Notwithstanding any such waiver granted by the Town Board relative to the sketch plan required for the incentive zoning application, all site plan requirements shall remain in full force and effect relative to any required Planning Board approvals.

- (2) The applicant shall also submit such additional information and plans as may be required by the Town Board, which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.

I. Planning Board review. The Planning Board will review the proposal and report to the Town Board with its evaluation of the adequacy with which the amenity(ies)/incentive(s) fit the site and how they relate to adjacent uses and structures. The Planning Board's review shall be limited to the impact of the proposed incentive zoning on the planning design and layout of the project unless otherwise requested by the Town Board. The Planning Board's report shall be submitted to the Town Board within 45 days from the date of the Planning Board meeting at which the proposal is first placed on the agenda. This time period may be extended by the Town Board.

- J. Town Board decision after public hearing. The Town Board, upon its receipt of the Planning Board's report, will review the document and then notify the applicant as to whether or not it is willing to further consider the proposal and hold a public hearing thereon. If the Town Board decides to further consider the proposal, it shall hold a public hearing thereon. For Town Board public hearings on incentive zoning requests, the Town Clerk shall give notice of the hearing in the official newspaper of the Town at least five days prior to the date of the hearing.
- K. SEQR compliance and verification. All applicable requirements of the State Environmental Quality Review (SEQR) regulations shall be complied with as part of the review and hearing process. The assessment shall include verification that the zoning district in which the proposal is to be located has adequate sewer, water, transportation, waste disposal and fire protection facilities to serve the on-site amenity and incentive.
- L. Costs. Any applicant for incentives or bonuses shall pay the cost of preparing any environmental impact statement required by the Town Board, this chapter, Town Law § 261-b, as amended, or 6 NYCRR Part 617, as amended, and such charge shall be added to any site-specific charge made pursuant to the provisions of § 8-0109 of the Environmental Conservation Law.
- M. Coordination with other governmental agencies. The Town Board shall, before taking action, refer, where appropriate, the application to the Ontario County Planning Board for review and recommendation under the provisions of §§ 239-l and 239-m of the New York State General Municipal Law. Where said rezoning application affects property located within 500 feet of a municipal boundary, the Town Clerk shall provide notice of said action to the Clerk of the adjacent municipality. Following the hearings and in addition to compliance with all SEQR requirements, the Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to the Planning Board and other Town Boards and officials for review and comment. In order to approve an amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. The Town Board shall, as part of their conditional approval, specify the amenity being provided, along with a detailed description of the incentive(s) being provided. Thereafter, the Town Board is authorized to act on an application for preliminary approval as provided for elsewhere in this section. In no circumstances may the Town Board be compelled to approve any incentive zoning proposal, such act being an absolutely discretionary legislative act. The Town Board may also impose such conditions upon its approval as it may deem appropriate to promote the health, safety and welfare of the community. Following approval of the incentive zoning by the Town Board and subject to meeting all conditions imposed on the preliminary plan, including all documentation required by the Town Attorney, Town Highway and Water Superintendent, Town Water and Sewer Superintendent, Town Code Enforcement Officer, Town Zoning Officer, Town Planner and the Fire Chief of either the City of Canandaigua Fire Department or the Fire

Chief of the Cheshire Volunteer Fire Department on the amenity, the applicant may submit a site plan for review and approval by the Planning Board subject to all other requirements of the Town Code.

- N. Notation on official Zoning Map. Upon final plan approval, the Town Clerk shall affix a reference to the Official Zoning Map that the development of this site was approved under the Town's incentive zoning provisions and include a reference to the date such action was taken.
- O. Cash payment in lieu of amenity. If the Town Board finds that a community benefit is not suitable on site or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provisions of the amenity. These funds shall be placed in a fund or capital project at the discretion of the Town Board to be used by the Town Board exclusively for amenities specified prior to acceptance of funds. Cash payments shall be made prior to the issuance of a building permit. Cash payments in lieu of amenities are not to be used to pay general and ordinary Town expenses. Cash payments may be directed to existing reserve funds, capital projects, other funds; or funds or projects to be created by the Town Board.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 9 of 2022 of the ~~(County)(City)(Town)(Village)~~ of Canandaigua was duly passed by the Town Board on November 21 20 22, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ and was deemed duly adopted ~~(Elective Chief Executive Officer*)~~ on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ on _____ 20____. ~~(Elective Chief Executive Officer*)~~

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

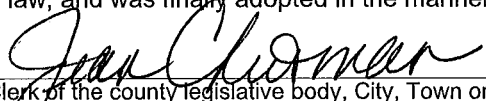
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: 11/29/2022

(Seal)

Short Environmental Assessment Form

Part 1 - Project Information

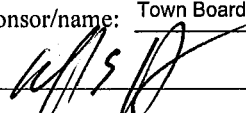
Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Town of Canandaigua			
Name of Action or Project: Adoption of a local law to amend town code chapter 220-33 Incentive Zoning			
Project Location (describe, and attach a location map): Town of Canandaigua			
Brief Description of Proposed Action: The Town Board is considering the adoption of a town code amendment that would change Chapter 220-33 Incentive Zoning, to authorize the Town Board to utilize incentive zoning in any Town of Canandaigua zoning district and to clarify options for cash payment in lieu of amenity.			
Name of Applicant or Sponsor: Town Board, Town of Canandaigua		Telephone: 585-394-1120	
		E-Mail: sreynolds@townofcanandaigua.org	
Address: 5440 Route 5 & 20 West			
City/PO: Canandaigua		State: NY	Zip Code: 14424
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, <div style="margin-left: 40px;"> a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? </div> If Yes, briefly describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Town Board, Town of Canandaigua</u> Date: _____ Signature: <u></u> Title: <u>Town Manager</u>		

PRINT FORM

Project:	Incentive Zoning Amendment
Date:	

Short Environmental Assessment Form

Part 2 - Impact Assessment


Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Town of Canandaigua	11.21.22
Name of Lead Agency	Date
Douglas Finch	Town Manager
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
 2022-273	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1791

The following resolution was acted upon by the Canandaigua Town Board on November 21, 2022:

RESOLUTION NO. 2022 – 273: SEQR DETERMINATION OF NON-SIGNIFICANCE AND ADOPTION OF LOCAL LAW TO AMEND THE TOWN CODE CHAPTER 220-33 INCENTIVE ZONING

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the adoption of a local law to amend the town code Chapter 220-33 Incentive Zoning, to authorize the Town Board to utilize incentive zoning in any Town of Canandaigua zoning district and to clarify options for payment in lieu of amenity; and

WHEREAS, the Town Board of the Town of Canandaigua held a public hearing(s) on the proposed local law on November 21, 2022; and

WHEREAS, the Town Board determines said proposed action is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board of the Town of Canandaigua has given consideration to the criteria for determining significance as set forth in § 617.7(c)(1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Town Board of the Town of Canandaigua has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby designates itself as lead agency for the described action; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua has reasonably concluded there would not be any substantial adverse impact on the following: land use planning or zoning regulations; intensity of use of the land; character or quality of the existing community; environmental characteristics; existing level of traffic or infrastructure, use of energy; public or private water supplies; public or private wastewater treatment utilities; character or quality of important historic, archaeological, architectural or aesthetic resources; natural resources; potential for erosion, flooding or drainage problems; or creation of a hazard to environmental resources or human health; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua determines upon the information and analysis documented, the proposed action will not result in any significant adverse environmental impacts; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua does hereby make a Determination of Non-Significance on the proposed action; and

BE IT FURTHER RESOLVED, the Town Manager is hereby directed to sign the Short Environmental Assessment Form Part 3 and file with the Town Clerk as evidence the Town Board has determined the proposed action will not result in any significant adverse environmental impact; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. 9 of the Year 2022; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua directs the Town Clerk to include SEQR, findings, and narrative of the Town Board of the Town of Canandaigua as it pertains to this Local Law for filing purposes; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. 9 of the Year 2022 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Motion made by Councilman Fennelly, seconded by Councilwoman DeMay

3 Ayes: DeMay, Fennelly, Simpson

STATE OF NEW YORK}
County of Ontario}
Town of Canandaigua}

I DO HEREBY CERTIFY that I have compared the preceding with the original thereof, on file and on record in the Town Clerk's office, and that the same is a correct copy and transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Town Board held at Canandaigua, New York, on November 21, 2022.

SEAL

Given under my hand and the official seal of said Town, at Canandaigua NY, in said county, on November 22, 2022.


Rebecca Doyle, Deputy Town Clerk

From: Gannett Legals Public Notices 5 (ganlegpubnotices5@gannett.com)
<ganlegpubnotices5@gannett.com>
Sent: Tuesday, November 1, 2022 10:45 AM
To: rdoyle@townofcanandaigua.org
Subject: RE: 7995935 & 7995988 RE: two public hearing notices
Attachments: Public Notice 7995935.pdf; Public Notice 7995988.pdf

Corrected.

Here are the proofs of the legal notices that you have requested.

The notices will run on 11/08/22 in the Canandaigua Daily Messenger.

The total cost is \$39.44 & 39.44 which includes an affidavit. Please reply by 5pm Friday Nov. 4th with changes for the ad. **Your notice is scheduled to run per your request and will publish unless you advise otherwise.** You will be able to receive an affidavit 7-10 business days after the last day of printing.

Thanks,

Kimberly Megrew
Public Notice Representative



Office: 844-678-3462

From: rdoyle@townofcanandaigua.org <rdoyle@townofcanandaigua.org>
Sent: Tuesday, November 1, 2022 9:17 AM
To: Gannett Legals Public Notices 5 <ganlegpubnotices5@gannett.com>
Subject: RE: 7995935 & 7995988 RE: two public hearing notices

Hello

Attached are the correct ones .

Thank you

Rebeca Doyle

Deputy Town Clerk

Town of Canandaigua

5440 Route 5 & 20 West

Canandaigua NY 14424

Office Hours:

Mon, Tues, Thur & Fri

8:00am-4:00pm

Wednesday

8:00am-5:30pm

From: Gannett Legals Public Notices 5 (ganlegpubnotices5@gannett.com) <ganlegpubnotices5@gannett.com>

Sent: Monday, October 31, 2022 4:10 PM

To: rdoyle@townofcanandaigua.org

Subject: 7995935 & 7995988 RE: two public hearing notices

Here are the proofs of the legal notices that you have requested.

The notices will run on 11/08/22 in the Canandaigua Daily Messenger.

The total cost is \$39.06 & 39.44 which includes an affidavit. Please reply by 5pm Friday Nov. 4th with changes for the ad. **Your notice is scheduled to run per your request and will publish unless you advise otherwise.** You will be able to receive an affidavit 7-10 business days after the last day of printing.

Thanks,

 Amberly Megrew

Public Notice Representative



Office: 844-678-3462

From: rdoyle@townofcanandaigua.org <rdoyle@townofcanandaigua.org>

Sent: Monday, October 31, 2022 1:36 PM

To: Messengerlegals-Messengerpostmedia <Messengerlegals@messengerpostmedia.com>


Subject: two public hearing notices

Hello

Please find attached two legal notices that the Town of Canandaigua is requesting to be published int the Tuesday November 8, 2022, Daily messenger. Please confirm receipt and publication date.

Thank you

Rebeca Doyle

 Deputy Town Clerk

Town of Canandaigua

5440 Route 5 & 20 West

Canandaigua NY 14424

585-394-1120 Ext 2226

Office Hours:

Mon, Tues, Thur & Fri

8:00am-4:00pm

Wednesday

8:00am-5:30pm

Account Number:	789748
Customer Name:	Town Of Canandaigua *Le*
Customer Address:	Town Of Canandaigua *Le* 5440 State Route 5 And 20 Canandaigua NY 14424-9327
Contact Name:	Town Of Canandaigua *Le*
Contact Phone:	5853941120
Contact Email:	
PO Number:	

Date:	11/01/2022
Order Number:	7995935
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	38.0000
Height in Inches:	0.0000

Print			
Product	# Insertions	Start - End	Category
CND Daily Messenger	1	11/08/2022 - 11/08/2022	Public Notices
CND mpnnow.com	1	11/08/2022 - 11/08/2022	Public Notices

Total Order Confirmation	\$39.44
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Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, NY 14424
(585) 394-1120

Fax: (585) 394-9476
Established 1789

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE, that the Town of Canandaigua Town Board will be conducting a public hearing on a draft local law to amend Chapter 220 (Zoning) relating to incentive zoning on Monday, November 21, 2022, beginning at 6:00 p.m. The meeting will be held in the Onnalinda Conference Room on the lower level of the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY, and people can participate via Zoom (details found on the Town's website). All persons of interest will be heard at this time and date. A copy of the draft local law can be viewed from the Town's website. All questions relating to the local law should be directed to Town Manager Doug Finch at dfinch@townofcanandaigua.org

By order of the Town Board
October 17, 2022.
#7995935

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424
(585) 394-1120
Fax: (585) 394-9476

Established 1791

The following resolution was acted upon by the Canandaigua Town Board on October 17, 2022:

RESOLUTION NO. 2022 – 252: SETTING A PUBLIC HEARING TO ADOPT A LOCAL LAW TO AMEND THE TOWN CODE CHAPTER 220-33 INCENTIVE ZONING; AND SEQR INTENT TO DECLARE LEAD AGENCY

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the adoption of a local law to amend the town code Chapter 220-33 Incentive Zoning, to authorize the Town Board to utilize incentive zoning in any Town of Canandaigua zoning district and to clarify options for cash payment in lieu of amenity; and

WHEREAS, the Town Board seeks to hold a Public Hearing to obtain public input; and

WHEREAS, the Town Board wishes to refer the proposed draft to the Town of Canandaigua Planning Board, Zoning Board, and the Environmental Conservation Board; and

WHEREAS, the Town Board intends to determine said law change is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board intends to declare itself as the Lead Agency on the proposed action; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Canandaigua hereby establishes a public hearing to obtain public input as it considers a proposed local law to amend the Town of Canandaigua Code Chapter 220-33 Incentive Zoning to be held on November 21, 2022 at 6:00 pm at the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY 14424 and also via Zoom videoconferencing; and

BE IT FINALLY RESOLVED, the Town Clerk is directed to provide notice of said public hearing and to provide a copy of this resolution to the Town Manager’s Office.

Motion made by Councilman Fennelly, seconded by Councilwoman DeMay

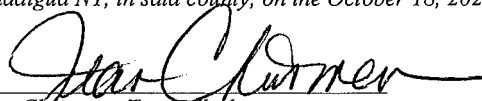
4 Ayes: DeMay, Fennelly, Rudolph, Simpson

STATE OF NEW YORK}
County of Ontario}
Town of Canandaigua}

I DO HEREBY CERTIFY that I have compared the preceding with the original thereof, on file and on record in the Town Clerk's office, and that the same is a correct copy and transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Town Board held at Canandaigua, New York, on October 17, 2022.

SEAL

Given under my hand and the official seal of said Town, at Canandaigua NY, in said county, on the October 18, 2022.


Jean Chrisman, Town Clerk

overlay district, its' definition and purpose, who has the right to engage in agricultural practices, and new infrastructure improvement considerations. The overlay district applies to farm parcels of 7 acres or more west of SR 21, south of CR 30 and North of Rossier Road and in the Strategic Farmland Protection Area as defined in the Town's Agricultural Enhancement Plan adopted in 2016. The overlay districts required Town Board approval of extension of public water and sewer infrastructure before Planning Board approval of any major subdivision within the overlay.

Comments

1. The Town Code definition of major subdivision excludes conservation subdivisions. Is it the Town Board's intent to allow Planning Board approval of conservation subdivisions involving extension of public utilities within the overlay without Town Board concurrence?
2. Town Board needs to have a revote on the local law because the first vote occurred prior to a County Planning Board recommendation. Therefore, the previous vote does not meet state statute.
3. The Town Board may want to reference both Map 7 in the 2016 Farmland Protection Plan which outlines the Strategic Farmland Protection Area and provides information on active farmland and its agricultural soil classification and Map 7 Protected Land in the 2021 Comprehensive Plan update which includes an outline of the Farmland Protection Area, Paddleford Brook Greenway, permanently protected farmland, and farmland on which protection is in progress.

CPB Comment

1. The Farmland Protection Area/Farmland Protection Overlay encompasses much of the Town. Are there sufficient other areas to accommodate projected growth

Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

18-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend Town of Canandaigua Town Code Chapter 220 (Zoning) section 220-31, enabling the Town Board to utilize Incentive Zoning in any Town of Canandaigua zoning district, and would further define applicable options for cash payment in lieu if the Town Board determines such a payment is applicable.			

<https://ontariocountyny.gov/DocumentCenter/View/41964/18-2024-LL-T-Canandaigua-IZ-District>

The Town Board has the authority to rezone parcels in the Town of Canandaigua when the current zoning limits potential use either as identified by the owner of the parcel or the Town of Canandaigua.

The Incentive Zoning District, which specifically allows the Town Board to rezone a parcel to Incentive Zoning when the Town Board determines a benefit exists for the rezoning; however, initial incentive zoning authorizations limited for use to the following zoning districts: R-1-30 (Residential Single-Family District), R-1-20 (Residential Single-Family District), MR (Multiple Residential District), NC (Neighborhood Commercial District), CC (Community Commercial District), RB-1 (Restricted Business District), LI (Limited Industrial District), and I (Industrial District).

The Town of Canandaigua has grown since the Incentive Zoning District was last updated and now includes zoning districts like SCR-1, RLD, Form Based Code, Mixed Use, and other zoning districts not listed in the Town Code currently as applicable to Incentive Zoning.

Local Law 9-2022 allows the Town Board to amend the Town Code to enable the Town Board to utilize Incentive Zoning in any Town of Canandaigua zoning district, and would further define applicable options for cash payment in lieu if the Town Board determines such a payment is applicable.

The amendment specifically occurs in Town Code Section 220-31D and 220-31O. Section 220-31D used to list R-1-30, R-1-20, MR, NC, CC, RB-1, LI, and I as the only zoning districts designated as eligible for zoning incentives. And that “incentives may be offered to applicants who offer an acceptable amenity to the Town in exchange for the incentive”. Now, in its entirety Section 220-31D reads “The Town Board shall have the authority to designate incentives in all zoning districts of the Town of Canandaigua”.

Also, Section 220-31O was updated to allow funds to be placed in a *fund or capital project at the discretion of the Town Board*, no longer just a *trust fund*. A sentence was also added at the end of 220-31O, “*Cash payments may be directed to existing reserve funds, capital projects, other funds; or funds or projects to be created by the Town Board*”.

Comment

1. Town Board needs to have a revote on the local law because the first vote occurred prior to a County Planning Board recommendation. Therefore, the previous vote does not meet state statute.

CPB Comments

1. Ensure allowed incentives don't negatively impact lake water quality, natural resources or additional T. Canandaigua comprehensive plan priorities.
2. Consider impact to existing properties owners when assessing use of Incentive Zoning and the appropriate incentives and amenities.

3. Consider intent of existing zoning districts when allowing use of Incentive Zoning. Incentive zoning is an important tool, though it can also undermine other goals embodied in existing zoning districts.

Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

19-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend Town of Canandaigua Town Code Chapter 220 (Zoning) section 220-9.1 on short-term rentals, in order to clarify definitions and application requirements/processes.			

<https://ontariocountyny.gov/DocumentCenter/View/41965/19-2024-LL-T-Canandaigua-STRs>

Text Amendment regarding short-term rentals was previously referred in May 2023 as 84-2023. Current referral adds new recommended changes taking into account some of the provided CRC comments from May 2023 (does special use permit expire upon transfer of property, what penalties apply if not met). Town Board has not yet voted on these current recommended changes.

The Town Planner and Code Enforcement Officers have been working with the Ordinance Committee to recommend certain amendments to the Town's short term rental law in order to clarify short term rental regulations, application requirements, application processes. The recommended changes include but are not limited to:

- clarifications to the definition of a bedroom and eliminating "sleeping area" in order to simplify and clarify the review and application process for both property owners and the Development Office and to bring definitions in line with NY State Building code language.
- organizing the language of the code to clarify the requirements for the short-term rental permit application. Previous application requirement language was distributed throughout the law and now all application requirements are located in one section within the law.

Incentive Zoning - German Brothers

Marion Cassie <4marion.cassie@gmail.com>

Sun 9/10/2023 5:06 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>; Adeline Rudolph <adelinerudolph@gmail.com>; Terry Fennelly <tfennelly@townofcanandaigua.org>; John Casey <jcasey@townofcanandaigua.org>; David Sauter <dsauter@townofcanandaigua.org>

Cc: cnadler@cnadlerlaw.com <cnadler@cnadlerlaw.com>; Doug Finch <dfinch@townofcanandaigua.org>

Dear Town Officials:

I have been reviewing the video presentation by German Brothers re: their request involving "Incentive Zoning", as well as the pertinent NYS Town Law (TWN 261-b), the Uniform Docking and Mooring Law UDML (Ch 96 of Town Code), and the Town's Incentive Zoning local law (220-31).

My conclusion is that there were errors made in drafting the Incentive Zoning local law that are confusing the issue as follows:

There are several places in both NYS Town Law 261-b and in Town code 220-31 where "Incentive Zoning" is defined and talked about as a "system", as well as in the Town's definitions Ch 1-17 (see "zoning, incentive"). Incentive zoning does not replace or change the existing zoning district...it is more akin to an overlay. As the definition in our code states, "Those adjustments to the zoning district requirements listed in section 220-31". NYS Town Law does not instruct towns to create a totally new zoning district. It specifies that a town should designate which existing districts will allow incentive zoning. (TWN 261-b(3)(b))

Entirely changing the district zoning for one parcel in the middle of an established zoning district would be more likely disallowed "spot zoning", which is I'm sure why NYS worded TWN 261-b the way they did.

The Town for some reason took it one step beyond what NYS TWN 261-b allows and added IZ to the list of zoning districts in 220-10, as if it was a district itself. Further confusion was added when 220-31 was titled "Incentive Zoning District" rather than just "Incentive Zoning". Unlike any of the other enumerated real zoning districts in 220-10, IZ does not give any "permitted principal uses", "permissible uses" or "dimensional guidelines".

TWN 261-b(3)(b) states: "Zoning Districts in which Incentive Zoning may be awarded shall be designated in the zoning ordinance or local law." We did that when we said in 220-31(D), "Districts designated for incentives. The Town Board shall have the authority to designate incentives in all zoning districts of the Town of Canandaigua." Although it would appear that the Town may not have followed the additional steps in TWN 261-b that need to be taken to choose which zoning districts would allow Incentive Zoning, when the Town chose "all districts".

Further, TWN 261-b(3)(e.)(i) requires that the Incentive Zoning ordinance or local law list the "incentives or bonuses, which may be granted by the Town to the applicant;" We also did that in Ch 220-31 (E.) "Permitted incentives: The Town Board may grant the following specific incentives:" There are only 3 listed specific permitted incentives: 1. increase in dwelling unit density. 2. changes in lot area and dimension requirements. 3. Changes in use. There is nothing in the Town's code that permits exceeding the requirements of UDML, or the number of boat slips allowed, even if a change in use were permitted. The allocated number of slips allowed by UDML is tied to the tier assigned to the zoning district, in this case RLD.

In UDML (Ch 96-6 A.) it states that: "The maximum number of docking and mooring facilities allocated to an adjoining parcel shall be based on the tier assigned by the Town Board to the adjoining zoning district." and further, 96-6 A.(1) states: "In the absence of a tier assignment by the Town Board, (If you were to incorrectly construe that IZ was a zoning district unto itself, per mistakes made.) default tier classification shall be Tier 1." The subject parcel is adjoining the RLD zoning district, which is Tier 1, and will remain in the RLD even if incentive zoning designation is granted to the parcel.

My understanding is that with the 3 lots requested, each having approximately 250 feet of lake frontage, the maximum total number of boat slips allowed for the whole project under UDML would be 18 (or 3 times 5+1).

Regardless, exceeding the UDML is not one of the three specific permitted incentives listed in 220-31.


Respectfully,
Marion Cassie
4735 Co Rd 16
(585) 394-1135

comments on IZ request from Marion Cassie

A Rudolph <adelinerudolph@gmail.com>

Tue 2/6/2024 6:00 PM

To: Jared Simpson <jsimpson@townofcanandaigua.org>

 1 attachments (85 KB)

comments on IZ request week of 9_10_23.pdf;

So include the attached email again and I'll copy some of her other comments below as well.

"I don't think the IZ code should be reapproved as is. The other pieces of code, yes, but not the IZ code as written.

I think the main question is: Is Incentive Zoning a zoning district unto itself, or is it an Overlay District.

Just think of the convoluted language already in the code. To paraphrase the IZ code that was written ... "IZ will be allowed in all of the towns zoning districts". So is it saying that IZ would be allowed in all districts including the IZ district? Of course not, that would be redundant. It should be an overlay in the district we designate.

You should work with Linda Phillips, OC Planning Director on this.

Current Canandaigua Town code section 220-31 section N shows that the underlying zoning on the official zoning map doesn't change. A notation is added to the official zoning map on the specific site that is receiving an approval under the town's incentive provisions.... in other words, an overlay."

Marion Cassie 2/5/2024

ATTACHMENT 3



LAW OFFICES OF
CHRISTIAN M. NADLER

****Privileged and Confidential****

TO: Town of Canandaigua Town Board

FROM: Chris Nadler, Town Attorney

DATE: December 19, 2023

RE: Adoption of Local Law # 9 of 2022 (amending Town Code to allow incentive zoning in all districts)

On December 14, 2023 Town Planner Sarah Reynolds received an email from Ontario County Planning Board indicating that they have no record of the above-referenced local law being referred to them as required by NYS General Municipal Law § 239-m, and requesting that the Town see if we have any such record. To date, no record of a referral has been located.

The Town Board adopted Resolution # 2022-273 on November 21, 2022 which issued a SEQR negative declaration and adopted Local Law # 9 of 2022. The Local Law was filed at the NYS Secretary of State's Office on December 2, 2022, and is now Town Code § 220-31, and allows incentive zoning in all districts.

My understanding of the law is that failure to make a County Planning Board referral on a zoning amendment is a jurisdictional defect. As a jurisdictional defect, any challenge to the local law would not be made by an Article 78 lawsuit, but rather a lawsuit seeking a declaratory judgment. This procedural difference is significant because an Article 78 lawsuit has a four month statute of limitations, and a declaratory judgment lawsuit has a six year statute of limitations.

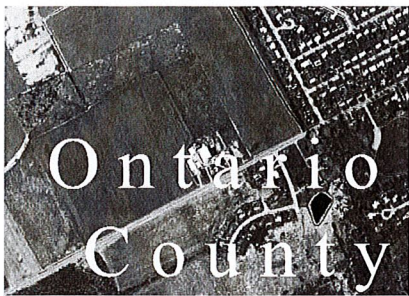
I have looked through all OCPB meeting minutes for 2022 and the second half of 2021 but did not see any mention of what eventually became Local Law # 9. Unfortunately, I only saw on zoning text amendment on OCPB's agendas during 2022, which I believe became Local Law # 8 of 2022. This leaves Local Law # 6 of 2022 (creating the Agricultural Protection Overlay District) and Local Law # 10 of 2022 (creating the Scenic Viewshed Overlay District) also vulnerable to challenge as jurisdictionally defective for the next 4+ years.

At this point I think we need to consider re-adopting each of the local laws described in the preceding paragraph. This will involve referral to OCPB, public hearings, and new local laws adopted with new resolutions. Unless instructed otherwise I will work with

Town Staff to get these 3 local laws on your January agenda to set 3 public hearings at your February Town Board meeting. Depending on when the referral to OCPB is made, you may be able to re-adopt the 3 local laws at your February Town Board meeting.

Please call me if you have any questions or if you would like to discuss this situation.

NADLER.



Ontario County Planning Board

Municipality and Referring Agency Town of Canandaigua, Town Board

Referring Official (name, title) Sarah Reynolds, Town Planner

Applicant (name & address) N/A

Email

Property Owner (name & address) Town of Canandaigua

5440 Route 5 & 20 West, Canandaigua, NY 14424

Email info@townofcanandaigua.org

Other Agent or Representative (Attorney, Architect, etc) (name & address) _____

Sarah Reynolds, Town Planner

Email sreynolds@townofcanandaigua.org

Property Information:

Tax Map Parcel #'s n/a Zoning n/a

Utilities:

Sewer ☐ Public
☐ Private

Water ☐ Public
☐ Private

Drainage ☐ Public
☐ Private

Application Type

Area Variance ☐

Use Variance ☐

Special Use Permit ☐

Site Plan ☐

Subdivision ☐

Text Amendment ☒

Map Amendment ☐

Other ☐

Sections of Local Code(s) that apply to this application

Chapter 220-33.2 Agricultural Protection Overlay District, adding section to
town code.

Certification: *With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, Section 239-m, part c.*

Sarah J Reynolds

, Referring Official



Provision of required information is the responsibility of the applicant and referring agency. Failure to provide such information may result in a significant delay in processing.

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
[HTTPS://DOS.NY.GOV](https://dos.ny.gov)

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

August 31, 2022

Jean Christman
Canandaigua Town Clerk
5440 Routes 9 & 20 West
Canandaigua NY 14424

CANANDAIGUA TOWN CLERK

SEP 13 2022

RECEIVED

Christman

RE: Town of Canandaigua, Local Law 6 & 7 2022, filed on August 22 2022

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492

#6 = Agricultural Protection
Overlay District

#7 = Agricultural Advisory
Committee



**Department
of State**

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424
(585) 394-1120
Fax: (585) 394-9476

Established 1791

August 18, 2022

NYS Department of State
Division of Corporations, State Records and
Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231

RE: Filing of Local Law 6 and 7 of 2022

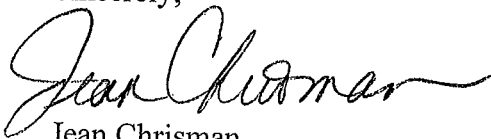
To Whom It May Concern:

Enclosed is a certified original of Local Law 6 and 7 of 2022 that were adopted by the Canandaigua Town Board on Monday, August 15, 2022:

- LL 6 of 2022: Amending Chapter 220 (Zoning) Creating Section 220-33.2 Titled Agricultural Protection Overlay District
- LL 7 of 2022: Amendment to Chapter 4 Agricultural Advisory Committee

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jean Chrisman
Town Clerk

Encs.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua

Local Law No. 6 of the year 20²²

A local law Amending Chapter 220 (Zoning) Creating Section 220-33.2 Titled
(Insert Title)
Agricultural Protection Overlay District

Be it enacted by the Town Board of the
(Name of Legislative Body)

☒ County ☐ City ☐ Town ☐ Village
(Select one:)

of Canandaigua as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Town of Canandaigua

LL 7 of 2022

ATTACHMENT A

The following section of Town of Canandaigua Town Code would be new and created:

§220-33.2 Agricultural Protection Overlay District

§ 220- 33.2.1 Intent.

It is the intent of this article to encourage a viable farming economy and community and to promote agriculture in the Town of Canandaigua by creating an Agriculture Protection Overlay District for parcels seven acres or more in the area identified as the Town of Canandaigua Agricultural Protection Overlay District as described in §220-33.2.2. Farms provide jobs and support the local economy, fresh foods and rural character and scenic landscape while requiring fewer community services. Furthermore, farms maintain wildlife habitat and other natural resources. This article seeks to sustain these important contributions provided by local farms to residents of the Town of Canandaigua by creating a protection area that includes a large area of prime farmland soil classification.

§ 220- 33.2.2 Agricultural Protection Overlay District.

The Agricultural Protection Overlay District shall be defined to include only those parcels of seven acres or greater in the Town of Canandaigua's Strategic Farmland Protection Area as mapped in the Town of Canandaigua Agricultural Enhancement Plan (adopted by the Town Board December 2016) labeled Map 7: Strategic Farmland Protection Area prepared November 10, 2016 and include only those parcels seven acres or greater in the Town of Canandaigua identified as south of County Road 30 and north of Rossier Road and west of NYS Route 21 and east of the Town of Canandaigua municipal boundary.

§ 220- 33.2.3 Purpose; effect on inconsistent provisions.

This article is enacted pursuant to the authority and power granted by Municipal Home Rule of the State of New York, Chapter 62 of Consolidated Laws, Article 16, in conformance with the Town's Comprehensive Plan and Agricultural Enhancement Strategy, to promote the public health, safety, comfort, convenience, economy, natural, agricultural, and cultural resources, aesthetics and the general welfare relating to agriculture uses in the Agricultural Protection Overlay District. Additionally, the purpose of this section of code is to encourage agriculture to continue and prosper and coordinate the Town of Canandaigua Comprehensive (Master) Plan, Agriculture and Open Space Preservation Study, Open Space and Recreation Needs Assessment Report, Agricultural Enhancement Strategy and other applicable Town, county, state, federal and regional plans and programs by specifically requiring the Town Board of the Town of Canandaigua to either approve or disapprove any new infrastructure improvements in the Agricultural Protection Overlay District prior to approval of new major subdivisions by the Planning Board.

§ 220-33.2.4 Right to engage in agricultural practices.

- A. Any owner or possessor of real property covered by this chapter, as well as those employed, retained or otherwise authorized to act on behalf of such individual, may lawfully engage in agricultural practices, within the Town of Canandaigua at any and all such times and in all locations as are reasonably necessary to conduct agriculture.
- B. There shall exist a presumption that no agricultural use that conforms to all relevant federal, state or local statutes, rules and regulations or ordinances and which does not pose a direct threat to public health and safety shall constitute a public nuisance, nor shall any such use be deemed to otherwise invade or interfere with the use and enjoyment of any other land or property.

§ 220-33.2.5 New infrastructure improvements.

- A. Any decision to expand public water or sewer lines shall consider limiting, minimizing, or mitigation of the expansion of water or sewer services to avoid those areas in the Agriculture Protection Overlay District.
- B. Any expansion of publicly owned water or sewer lines in the Agriculture Protection Overlay District must be approved by the Town Board of the Town of Canandaigua prior to the Planning Board granting major subdivision approval.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 2022 of the ~~(County)(City)~~ (Town)(Village) of Canandaigua was duly passed by the Town Board on August 15 2022, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)~~ (Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ and was deemed duly adopted ~~(Elective Chief Executive Officer*)~~ on _____ 2022, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)~~ (Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ on _____ 20____. ~~(Elective Chief Executive Officer*)~~

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the ~~(County)(City)~~ (Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the _____ on _____ 20____. Such local ~~(Elective Chief Executive Officer*)~~ law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

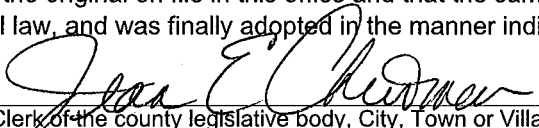
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.


Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date:

8/18/2022

(Seal)

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424
(585) 394-1120
Fax: (585) 394-9476

Established 1791

The following resolution was acted upon by the Canandaigua Town Board on August 15, 2022:

RESOLUTION NO. 2022 – 216: SEQR DETERMINATION OF NON-SIGNIFICANCE AND ADOPTION OF LOCAL LAW TO AMEND THE TOWN CODE SECTION 220-33.2 AGRICULTURAL PROTECTION OVERLAY DISTRICT

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the adoption of a local law to amend the town code to create a new section: 220-33.2 Agricultural Protection Overlay District, for certain parcels seven acres or greater within a specified area of the Strategic Farmland Protection Area; and

WHEREAS, the Town Board of the Town of Canandaigua held a public hearing(s) on the proposed local law on August 15, 2022; and

WHEREAS, the Town Board determines said proposed action is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board of the Town of Canandaigua has given consideration to the criteria for determining significance as set forth in § 617.7(c)(1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Town Board of the Town of Canandaigua has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby designates itself as lead agency for the described action; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua has reasonably concluded there would not be any substantial adverse impact on the following: land use planning or zoning regulations; intensity of use of the land; character or quality of the existing community; environmental characteristics; existing level of traffic or infrastructure, use of energy; public or private water supplies; public or private wastewater treatment utilities; character or quality of important historic, archaeological, architectural or aesthetic resources; natural resources; potential for erosion, flooding or drainage problems; or creation of a hazard to environmental resources or human health; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua determines upon the information and analysis documented, the proposed action will not result in any significant adverse environmental impacts; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua does hereby make a Determination of Non-Significance on the proposed action; and

BE IT FURTHER RESOLVED, the Town Manager is hereby directed to sign the Short Environmental Assessment Form Part 3 and file with the Town Clerk as evidence the Town Board has determined the proposed action will not result in any significant adverse environmental impact; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. 7 of the Year 2022; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua directs the Town Clerk to include SEQR, findings, and narrative of the Town Board of the Town of Canandaigua as it pertains to this Local Law for filing purposes; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. 7 of the Year 2022 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Motion made by Councilwoman Rudolph, seconded by Councilman Fennelly

4 Ayes: DeMay, Fennelly, Rudolph, Simpson

STATE OF NEW YORK}
County of Ontario}
Town of Canandaigua}

I DO HEREBY CERTIFY that I have compared the preceding with the original thereof, on file and on record in the Town Clerk's office, and that the same is a correct copy and transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Town Board held at Canandaigua, New York, on August 15, 2022.

SEAL

Given under my hand and the official seal of said Town, at Canandaigua NY, in said county, on the August 16, 2022


Jean Chrisman, Town Clerk

LOCALiQ

Observer-Dispatch | Daily Messenger
Burlington County Times
Times Telegram | New Jersey Herald
Times Herald-Record

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

Town Of Canandaigua *Le*
5440 State Route 5 And 20
Canandaigua NY 14424-9327

STATE OF WISCONSIN, COUNTY OF BROWN

The Daily Messenger, a daily newspaper of general circulation; printed and published in Canandaigua, Ontario County, New York; that the publication, a copy of which is attached hereto, was Published in said newspaper in the issues dated:

08/05/2022

That said newspaper was regularly issued and circulated on those dates.

Sworn to and subscribed before on 08/05/2022

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$36.78

Order No: 7613528

Customer No: 789748

PO #:

of Copies:

-1

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

AMY KOKOTT
Notary Public
State of Wisconsin

PUBLIC HEARING NOTICE
PLEASE TAKE NOTICE, that the Town of Canandaigua Town Board will be conducting a public hearing on a draft local law to Chapter 220 (Zoning) by creating Section 220-33.2 Agricultural Protection Overlay District Monday, August 15, 2022, beginning at 6:00 p.m. The meeting will be held in the Onnalinda Conference Room on the lower level of the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY, and people can participate via Zoom (details found on the Town's website). All persons of interest will be heard at this time and date. A copy of the draft local law can be viewed from the Town's website. All questions relating to the local law should be directed to Town Manager Doug Finch at dfinch@townofcanandaigua.org By order of the Town Board
June 13, 2022.

Aug 5
7613528

Short Environmental Assessment Form

Part 1 - Project Information

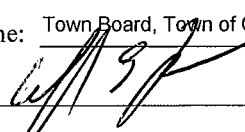
Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information							
Town of Canandaigua							
Name of Action or Project: Adoption of a local law to create new town code section 220-33.2 Agricultural Protection Overlay District							
Project Location (describe, and attach a location map): Town of Canandaigua							
Brief Description of Proposed Action: The Town Board is considering the adoption of a town code amendment that would create new town code section 220-33.2 Agricultural Protection Overlay District.							
Name of Applicant or Sponsor: Town Board, Town of Canandaigua		Telephone: 585-394-1120					
		E-Mail: sreynolds@townofcanandaigua.org					
Address: 5440 Route 5 & 20 West							
City/PO: Canandaigua		State: NY	Zip Code: 14424				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input type="checkbox"/>						
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres							
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland							

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Town Board, Town of Canandaigua</u> Date: _____ Signature: <u></u> Title: <u>Town Manager</u>		

Project:

Ag Overlay

Date:

8/23/22

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Agency Use Only [If applicable]	
Project:	Ag Overlay
Date:	

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Town of Canandaigua	8/23/22
_____ Name of Lead Agency	_____ Date
Doug Finch	Town Manager
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

PRINT FORM

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424
(585) 394-1120
Fax: (585) 394-9476

Established 1791

The following resolution was acted upon by the Canandaigua Town Board on July 18, 2022:

RESOLUTION NO. 2022 – 203: SETTING A PUBLIC HEARING ON A LOCAL LAW TO AMEND THE TOWN CODE SECTION 220-33.2 AGRICULTURAL PROTECTION OVERLAY DISTRICT; AND SEQR INTENT TO DECLARE LEAD AGENCY

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as "Town Board") is considering the adoption of a local law to amend the town code to create a new section: 220-33.2 Agricultural Protection Overlay District, for certain parcels seven acres or greater within a specified area of the Strategic Farmland Protection Area; and

WHEREAS, the purpose of this district is to protect valuable agricultural lands in the specified region by requiring Town Board approval of any new infrastructure improvements prior to major subdivision approval by the Planning Board; and

WHEREAS, the Town Board seeks to hold a Public Hearing to obtain public input; and

WHEREAS, the Town Board wishes to refer the proposed draft to the Town of Canandaigua Planning Board, Zoning Board, Environmental Conservation Board, and the Ontario County Planning Board; and

WHEREAS, the Town Board intends to determine said law change is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board intends to declare itself as the Lead Agency on the proposed action; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Canandaigua hereby establishes a public hearing to obtain public input as it considers the following proposed local law to amend the Town of Canandaigua Code Chapter 4 "Agricultural Advisory Committee" to be held on July 18, 2022 at 6:00 pm at the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY 14424 and also via Zoom videoconferencing; and

BE IT FINALLY RESOLVED, the Town Clerk is directed to provide notice of said public hearing and to provide a copy of this resolution to the Town Manager's Office.

Motion made by Councilwoman DeMay, seconded by Councilman Fennelly


4 Ayes: DeMay, Fennelly, Rudolph, Simpson

STATE OF NEW YORK}
County of Ontario}
Town of Canandaigua}

I DO HEREBY CERTIFY that I have compared the preceding with the original thereof, on file and on record in the Town Clerk's office, and that the same is a correct copy and transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Town Board held at Canandaigua, New York, on July 18, 2022.

SEAL

Given under my hand and the official seal of said Town, at Canandaigua NY, in said county, on the August 3, 2022


Jean Chrisman, Town Clerk

	minimum lot size in the SVO shall not be less than one acre, or the minimum size of the underlying zoning district whichever is greater.
--	--

<https://ontariocountyny.gov/DocumentCenter/View/41962/16-2024-LL-T-Canandaigua-Scenic-Viewshed-Overlay-District>

Local law 10-2022, amended the scenic viewshed overlay (SVO) portion of the Town Code of the Town of Canandaigua (§220-33.1) to clarify the minimum lot size in the SVO shall not be less than one acre, or the minimum size of the underlying zoning district whichever is greater. In some cases, in the Town of Canandaigua such as the AR-2 or RR-3 zoning districts the minimum lot size exceeds the one acre minimum. This amendment would clarify the minimum lot size of the underlying zoning district must be met for those zoning districts requiring greater than a one-acre lot size.

The amendment specifically occurs in Town Code Section 220-33.1D(1). Amendment changes text from “the minimum lot size in the SVO District is one acre” to “The minimum lot size in the SVO District *shall not be less than one acre or the minimum lot size of the underlying zoning district, whichever is greater*”.

Comment

1. Town Board needs to have a revote on the local law because the first vote occurred prior to a County Planning Board recommendation. Therefore, the previous vote does not meet state statute.

Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

17-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend Town of Canandaigua Town Code Chapter 220 (Zoning), creating section 220-33.2 titled "Agricultural Protection Overlay District".			

<https://ontariocountyny.gov/DocumentCenter/View/41963/17-2024-LL-T-Canandaigua-Ag-Protection-Overlay-District>

Local Law 6-2022 amended Chapter 220 of Town Code, creating section 220-33.2, titled “Agricultural Protection Overlay District”. This section highlights the intent of the agricultural

overlay district, its' definition and purpose, who has the right to engage in agricultural practices, and new infrastructure improvement considerations. The overlay district applies to farm parcels of 7 acres or more west of SR 21, south of CR 30 and North of Rossier Road and in the Strategic Farmland Protection Area as defined in the Town's Agricultural Enhancement Plan adopted in 2016. The overlay districts required Town Board approval of extension of public water and sewer infrastructure before Planning Board approval of any major subdivision within the overlay.

Comments

1. The Town Code definition of major subdivision excludes conservation subdivisions. Is it the Town Board's intent to allow Planning Board approval of conservation subdivisions involving extension of public utilities within the overlay without Town Board concurrence?
2. Town Board needs to have a revote on the local law because the first vote occurred prior to a County Planning Board recommendation. Therefore, the previous vote does not meet state statute.
3. The Town Board may want to reference both Map 7 in the 2016 Farmland Protection Plan which outlines the Strategic Farmland Protection Area and provides information on active farmland and its agricultural soil classification and Map 7 Protected Land in the 2021 Comprehensive Plan update which includes an outline of the Farmland Protection Area, Paddleford Brook Greenway, permanently protected farmland, and farmland on which protection is in progress.

CPB Comment

1. The Farmland Protection Area/Farmland Protection Overlay encompasses much of the Town. Are there sufficient other areas to accommodate projected growth

Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

18-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend Town of Canandaigua Town Code Chapter 220 (Zoning) section 220-31, enabling the Town Board to utilize Incentive Zoning in any Town of Canandaigua zoning district, and would further define applicable options for cash payment in lieu if the Town Board determines such a payment is applicable.			

<https://ontariocountyny.gov/DocumentCenter/View/41964/18-2024-LL-T-Canandaigua-IZ-District>

ATTACHMENT 4



LAW OFFICES OF
CHRISTIAN M. NADLER

****Privileged and Confidential****

TO: Town of Canandaigua Town Board

FROM: Chris Nadler, Town Attorney

DATE: December 19, 2023

RE: Adoption of Local Law # 9 of 2022 (amending Town Code to allow incentive zoning in all districts)

On December 14, 2023 Town Planner Sarah Reynolds received an email from Ontario County Planning Board indicating that they have no record of the above-referenced local law being referred to them as required by NYS General Municipal Law § 239-m, and requesting that the Town see if we have any such record. To date, no record of a referral has been located.

The Town Board adopted Resolution # 2022-273 on November 21, 2022 which issued a SEQR negative declaration and adopted Local Law # 9 of 2022. The Local Law was filed at the NYS Secretary of State's Office on December 2, 2022, and is now Town Code § 220-31, and allows incentive zoning in all districts.

My understanding of the law is that failure to make a County Planning Board referral on a zoning amendment is a jurisdictional defect. As a jurisdictional defect, any challenge to the local law would not be made by an Article 78 lawsuit, but rather a lawsuit seeking a declaratory judgment. This procedural difference is significant because an Article 78 lawsuit has a four month statute of limitations, and a declaratory judgment lawsuit has a six year statute of limitations.

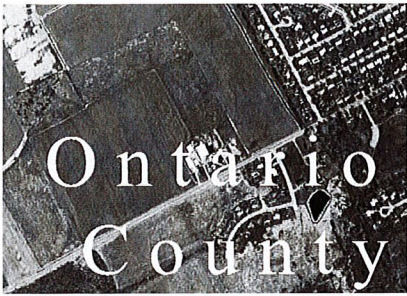
I have looked through all OCPB meeting minutes for 2022 and the second half of 2021 but did not see any mention of what eventually became Local Law # 9. Unfortunately, I only saw on zoning text amendment on OCPB's agendas during 2022, which I believe became Local Law # 8 of 2022. This leaves Local Law # 6 of 2022 (creating the Agricultural Protection Overlay District) and Local Law # 10 of 2022 (creating the Scenic Viewshed Overlay District) also vulnerable to challenge as jurisdictionally defective for the next 4+ years.

At this point I think we need to consider re-adopting each of the local laws described in the preceding paragraph. This will involve referral to OCPB, public hearings, and new local laws adopted with new resolutions. Unless instructed otherwise I will work with

Town Staff to get these 3 local laws on your January agenda to set 3 public hearings at your February Town Board meeting. Depending on when the referral to OCPB is made, you may be able to re-adopt the 3 local laws at your February Town Board meeting.

Please call me if you have any questions or if you would like to discuss this situation.

NADLER.



Zoning & Subdivision
Referral Cover Sheet

Planning Board

Municipality and Referring Agency Town of Canandaigua, Town Board

Referring Official (name, title) Sarah Reynolds, Town Planner

Applicant (name & address) N/A

Email

Property Owner (name & address) Town of Canandaigua

5440 Route 5 & 20 West, Canandaigua, NY 14424

Email info@townofcanandaigua.org

Other Agent or Representative (Attorney, Architect, etc) (name & address) _____

Sarah Reynolds, Town Planner

Email sreynolds@townofcanandaigua.org

Property Information:

Tax Map Parcel #'s n/a Zoning n/a

Utilities:

Sewer ☐ Public
☐ Private

Water ☐ Public
☐ Private

Drainage ☐ Public
☐ Private

Application Type

- Area Variance ☐
Use Variance ☐
Special Use Permit ☐
Site Plan ☐
Subdivision ☐
Text Amendment ☒
Map Amendment ☐
Other ☐

Sections of Local Code(s) that apply to this application

Chapter 220-33.1 Scenic Viewshed Overlay District, amending section of
town code.

Certification: *With the following signature I certify that this application provides a complete description of the proposed local action and is a complete application pursuant to NYS General Municipal Law Article 12b, Section 239-m, part c.*

Sarah Reynolds

_____, Referring Official



Provision of required information is the responsibility of the applicant and referring agency. Failure to provide such information may result in a significant delay in processing.

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
[HTTPS://DOS.NY.GOV](https://dos.ny.gov)

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

December 7, 2022 **CANANDAIGUA TOWN CLERK**

DEC 12 2022

RECEIVED

Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, NY 14424

RE: Town of Canandaigua, Local Law 9 & 10 2022, filed on 12/2/2022

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492

*LL#9 - Amend Sect 220-31
Incentive Zoning
✓LL#10 - Amend Sect 220-33 Scenic
Viewshed Overlay*



**Department
of State**

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1791

November 29, 2022

NYS Department of State
Division of Corporations, State Records and
Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, New York 12231

RE: Filing of Local Laws 9 and 10 of 2022

To Whom It May Concern:

Enclosed is a certified original of Local Laws 9 and 10 of 2022 that were adopted by the Canandaigua Town Board on Monday, October 21, 2022:

- LL 9 of 2022: Amendments to Chapter 220 (Zoning) Section 220-31 Incentive Zoning District
- ✓ LL 10 of 2022: Amendments to Chapter 220 (Zoning) Section 220-33 Scenic Viewshed Overlay District

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jean Chrisman
Town Clerk

Encs.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua

Local Law No. 10 of the year 20²²

A local law Amendments to Chapter 220 (Zoning) Section 220-33 Scenic Viewshed Overlay District
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Canandaigua as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Attachment A
Local Law 10 of 2022

§ 220-33.1 Scenic Viewshed Overlay District.

- A. Purpose. It is the purpose of the Scenic Viewshed Overlay District (SVO District) to provide supplemental regulations to the underlying zoning district(s) that are located within the mapped SVO District to support the protection of the Town of Canandaigua's natural resources. The SVO District is an area mapped south of NYS Route 5&20 and identified as "Land Visible from Canandaigua Lake" June 2018 from mapping completed as part of the Town of Canandaigua's Comprehensive Plan and found in the adopted Town of Canandaigua Open Space, Conservation, and Scenic Views Master Plan (2018).
- B. Intent. It is the intent of the SVO District to grant authorization to the Planning Board of the Town of Canandaigua to enable development or subdivision in a manner which shall protect the natural resources as identified in the Town of Canandaigua's Comprehensive Plan; Open Space, Conservation, and Scenic Views Master Plan; and Natural Resource Inventory by promoting new single-family development on minimum one-acre lots in the SVO District and thereby limit the potential harmful impact(s) to the identified natural resources and Canandaigua Lake.
- C. Applicability. The SVO District is overlaid onto the underlying zoning districts. All provisions of the underlay districts shall be applied except where provisions of the SVO District differ, in such cases the more restrictive provision shall apply.
- D. Site development standards. To the extent possible, any subdivision of land in the SVO District shall not create a new lot unless all parcels are at least one acre in size, or the Planning Board finds a lessening of the degree of nonconformity for the combination of preexisting nonconforming lots. To the extent possible, the Planning Board of the Town of Canandaigua shall be authorized to grant subdivision and development of land in the SVO District provided the following standards have been met:
 - (1) Density and minimum lot size. The minimum lot size in the SVO District shall not be less than one acre or the minimum lot size of the underlying zoning district, whichever is greater. In the SVO District the use of conservation subdivisions (§ 174-16) shall not result in a lot size smaller than one acre, and the land area identified as part of the SVO District shall be identified as a priority conservation asset, Class 2.
 - (2) Permitted uses. The following mix of land use is permitted on a legal lot located within the SVO District:
 - (a) One single-family dwelling;
 - (b) One single-family dwelling with accessory apartment, where public sewer and water service exist;
 - (c) Public parks;
 - (d) Public safety facilities.
 - (3) Development shall be located in a manner that maintains the existing landscape features to the greatest extent feasible by locating buildings to complement natural topography. Consideration should be given to blend the proposed development with the existing natural

resources. The Planning Board shall consider and may require those elements identified in the Town of Canandaigua Ridgeline Development Guidelines or Shoreline Development Guidelines as part of the site development authorization.

E. Higher standards to prevail; improvements required.

- (1) The provisions of this chapter shall supersede local laws, ordinances, codes or regulations to the extent such laws, ordinances, codes or regulations are inconsistent with the provisions of this section, provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance or regulation which is more restrictive or establishes a higher standard than those provided in this chapter and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.
- (2) In a case where a provision of this section is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire safety, health, water supply or sewage disposal law or ordinance, or regulation adopted pursuant thereto, or other local law, ordinance, code or regulation, the provision or higher standard shall prevail.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 9 of 2022 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on November 21 2022, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 2022, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

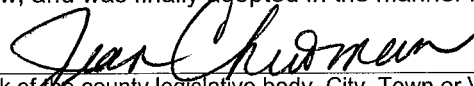
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.


Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: _____

11/29/2022

(Seal)

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information							
Town of Canandaigua							
Name of Action or Project: Adoption of a local law to amend town code chapter 220-33.1 Scenic Viewshed Overlay							
Project Location (describe, and attach a location map): Town of Canandaigua							
Brief Description of Proposed Action: The Town Board is considering the adoption of a town code amendment that would change Chapter 220-33.1 Scenic Viewshed Overlay to clarify the minimum lot size requirements.							
Name of Applicant or Sponsor: Town Board, Town of Canandaigua		Telephone: 585-394-1120					
		E-Mail: sreynolds@townofcanandaigua.org					
Address: 5440 Route 5 & 20 West							
City/PO: Canandaigua		State: NY	Zip Code: 14424				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input type="checkbox"/>						
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres							
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland							

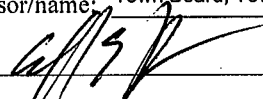
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Town Board, Town of Canandaigua</u> Date: _____		
Signature: <u></u> Title: <u>Town Manager</u>		

Project:	Scenic Viewshed Overlay
Date:	

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project: **Scenic Viewshed**Date:

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
<div style="display: flex; justify-content: space-between;"> Town of Canandaigua <u>11.21.22</u> </div>	
<div style="display: flex; justify-content: space-between;"> Name of Lead Agency Date </div>	<div style="display: flex; justify-content: space-between;"> Town Manager </div>
<div style="display: flex; justify-content: space-between;"> Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer </div>	<div style="display: flex; justify-content: space-between;"> </div>
<div style="display: flex; justify-content: space-between;"> Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from Responsible Officer) </div>	<div style="display: flex; justify-content: space-between;"> </div>

PRINT FORM

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1791

The following resolution was acted upon by the Canandaigua Town Board on November 21, 2022:

RESOLUTION NO. 2022 – 274: SEQR DETERMINATION OF NON-SIGNIFICANCE AND ADOPTION OF A LOCAL LAW TO AMEND TOWN CODE CHAPTER 220-33.1 SCENIC VIEWSHED OVERLAY

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the adoption of a local law that would amend zoning code relating to §220-33.1 Scenic Viewshed Overlay District (SVO) to clarify that the minimum lot size in the SVO shall not be less than one acre, or the minimum size of the underlying zoning district whichever is greater; and

WHEREAS, the Town Board of the Town of Canandaigua held a public hearing(s) on the proposed local law on November 21, 2022; and

WHEREAS, the Town Board determines said proposed action is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board of the Town of Canandaigua has given consideration to the criteria for determining significance as set forth in § 617.7(c)(1) of the SEQR Regulations and the information contained in the Short Environmental Assessment Form Part 1; and

WHEREAS, the Town Board of the Town of Canandaigua has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby designates itself as lead agency for the described action; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua has reasonably concluded there would not be any substantial adverse impact on the following: land use planning or zoning regulations; intensity of use of the land; character or quality of the existing community; environmental characteristics; existing level of traffic or infrastructure, use of energy; public or private water supplies; public or private wastewater treatment utilities; character or quality of important historic, archaeological, architectural or aesthetic resources; natural resources; potential for erosion, flooding or drainage problems; or creation of a hazard to environmental resources or human health; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua determines upon the information and analysis documented, the proposed action will not result in any significant adverse environmental impacts; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua does hereby make a Determination of Non-Significance on the proposed action; and

BE IT FURTHER RESOLVED, the Town Manager is hereby directed to sign the Short Environmental Assessment Form Part 3 and file with the Town Clerk as evidence the Town Board has determined the proposed action will not result in any significant adverse environmental impact; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua, after due deliberation, finds it in the best interest of the Town of Canandaigua and the community to adopt said Local Law; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby adopts Local Law No. 10 of the Year 2022; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua directs the Town Clerk to include SEQR, findings, and narrative of the Town Board of the Town of Canandaigua as it pertains to this Local Law for filing purposes; and

BE IT FINALLY RESOLVED, the Town Board of the Town of Canandaigua hereby directs the Town Clerk to enter Local Law No. 10 of the Year 2022 in the minutes of this meeting, and in the Local Law Book of the Town of Canandaigua, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Motion made by Councilwoman DeMay, seconded by Councilman Fennelly

3 Ayes: DeMay, Fennelly, Simpson

STATE OF NEW YORK}
County of Ontario}
Town of Canandaigua}

I DO HEREBY CERTIFY that I have compared the preceding with the original thereof, on file and on record in the Town Clerk's office, and that the same is a correct copy and transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Town Board held at Canandaigua, New York, on November 21, 2022.

SEAL

Given under my hand and the official seal of said Town, at Canandaigua NY, in said county, on November 22, 2022.


Rebecca Doyle, Deputy Town Clerk

rdoyle@townofcanandaigua.org

From: Gannett Legals Public Notices 5 (ganlegpubnotices5@gannett.com)
<ganlegpubnotices5@gannett.com>
Sent: Tuesday, November 1, 2022 10:45 AM
To: rdoyle@townofcanandaigua.org
Subject: RE: 7995935 & 7995988 RE: two public hearing notices
Attachments: Public Notice 7995935.pdf; Public Notice 7995988.pdf

Corrected.

Here are the proofs of the legal notices that you have requested.

The notices will run on 11/08/22 in the Canandaigua Daily Messenger.

The total cost is \$39.44 & 39.44 which includes an affidavit. Please reply by 5pm Friday Nov. 4th with changes for the ad. **Your notice is scheduled to run per your request and will publish unless you advise otherwise.** You will be able to receive an affidavit 7-10 business days after the last day of printing.
Thanks,

Kimberly Megrew
Public Notice Representative



Office: 844-678-3462

From: rdoyle@townofcanandaigua.org <rdoyle@townofcanandaigua.org>
Sent: Tuesday, November 1, 2022 9:17 AM
To: Gannett Legals Public Notices 5 <ganlegpubnotices5@gannett.com>
Subject: RE: 7995935 & 7995988 RE: two public hearing notices

Hello

Attached are the correct ones .

Thank you

Rebeca Doyle

Deputy Town Clerk

Town of Canandaigua

5440 Route 5 & 20 West

Canandaigua NY 14424

585-394-1120 Ext 2226

Office Hours:

Mon, Tues, Thur & Fri

8:00am-4:00pm

Wednesday

8:00am-5:30pm

From: Gannett Legals Public Notices 5 (ganlegpubnotices5@gannett.com) <ganlegpubnotices5@gannett.com>

Sent: Monday, October 31, 2022 4:10 PM

To: rdoyle@townofcanandaigua.org


Subject: 7995935 & 7995988 RE: two public hearing notices

Here are the proofs of the legal notices that you have requested.

The notices will run on 11/08/22 in the Canandaigua Daily Messenger.

The total cost is \$39.06 & 39.44 which includes an affidavit. Please reply by 5pm Friday Nov. 4th with changes for the ad. **Your notice is scheduled to run per your request and will publish unless you advise otherwise.** You will be able to receive an affidavit 7-10 business days after the last day of printing.

Thanks,

 Kimberly Megrew
Public Notice Representative



Office: 844-678-3462

From: rdoyle@townofcanandaigua.org <rdoyle@townofcanandaigua.org>

Sent: Monday, October 31, 2022 1:36 PM

To: Messengerlegals-Messengerpostmedia <Messengerlegals@messengerpostmedia.com>

Subject: two public hearing notices

Hello

Please find attached two legal notices that the Town of Canandaigua is requesting to be published in the Tuesday November 8, 2022, Daily messenger. Please confirm receipt and publication date.

Thank you

Rebeca Doyle

Deputy Town Clerk

Town of Canandaigua

5440 Route 5 & 20 West

Canandaigua NY 14424

585-394-1120 Ext 2226

Office Hours:

Mon, Tues, Thur & Fri

8:00am-4:00pm

Wednesday

8:00am-5:30pm

LOCALiQ

Observer-Dispatch | Daily Messenger
Times Telegram | New Jersey Herald
Times Herald-Record

Order Confirmation

Not an Invoice

Account Number:	789748
Customer Name:	Town Of Canandaigua *Le*
Customer Address:	Town Of Canandaigua *Le* 5440 State Route 5 And 20 Canandaigua NY 14424-9327
Contact Name:	Town Of Canandaigua *Le*
Contact Phone:	5853941120
Contact Email:	
PO Number:	

Date:	11/01/2022
Order Number:	7995988
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	38.0000
Height in Inches:	0.0000

Print

Product	#Insertions	Start - End	Category
CND Daily Messenger	1	11/08/2022 - 11/08/2022	Public Notices
CND mpnow.com	1	11/08/2022 - 11/08/2022	Public Notices

Total Order Confirmation

\$39.44

Ad Preview

Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1789

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE, that the Town of Canandaigua Town Board will be conducting a public hearing on a draft local law to amend Chapter 220 (Zoning) relating to Scenic Viewshed on Monday, November 21, 2022, beginning at 6:00 p.m. The meeting will be held in the Onnolinda Conference Room on the lower level of the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY, and people can participate via Zoom (details found on the Town's website). All persons of interest will be heard at this time and date. A copy of the draft local law can be viewed from the Town's website. All questions relating to the local law should be directed to Town Manager Doug Finch at dfinch@townofcanandaigua.org

By order of the Town Board
October 17, 2022.
#7995988

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1791

The following resolution was acted upon by the Canandaigua Town Board on October 17, 2022:

RESOLUTION NO. 2022 – 251: SETTING A PUBLIC HEARING TO ADOPT A LOCAL LAW TO AMEND TOWN CODE CHAPTER 220-33.1 SCENIC VIEWSHED OVERLAY; AND SEQR INTENT TO DECLARE LEAD AGENCY

WHEREAS, the Town Board of the Town of Canandaigua (herein after referred to as “Town Board”) is considering the adoption of a local law that would amend zoning code relating to §220-33.1 Scenic Viewshed Overlay District (SVO) to clarify that the minimum lot size in the SVO shall not be less than one acre, or the minimum size of the underlying zoning district whichever is greater; and

WHEREAS, the Town Board seeks to hold a Public Hearing to obtain public input; and

WHEREAS, the Town Board wishes to refer the proposed draft to the Town of Canandaigua Planning Board, Zoning Board, Environmental Conservation Board; and

WHEREAS, the Town Board intends to determine said law change is classified as an Unlisted Action under the SEQR Regulations per §617 of the NYS Department of Environmental Conservation Law; and

WHEREAS, the Town Board intends to declare itself as the Lead Agency on the proposed action; and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Canandaigua hereby establishes a public hearing to obtain public input as it considers the proposed local law to amend the Town of Canandaigua Code section §220-33.1 Scenic Viewshed Overlay District to be held on November 21, 2022 at 6:00 pm at the Canandaigua Town Hall located at 5440 Route 5 & 20 West, Canandaigua, NY 14424 and also via Zoom videoconferencing; and

BE IT FINALLY RESOLVED, the Town Clerk is directed to provide notice of said public hearing and to provide a copy of this resolution to the Town Manager’s Office.


Motion made by Councilwoman Rudolph, seconded by Councilman Fennelly

4 Ayes: DeMay, Fennelly, Rudolph, Simpson

STATE OF NEW YORK}
County of Ontario}
Town of Canandaigua}

I DO HEREBY CERTIFY that I have compared the preceding with the original thereof, on file and on record in the Town Clerk’s office, and that the same is a correct copy and transcript therefrom and of the whole of said original; and that said original was duly adopted at a meeting of the Town Board held at Canandaigua, New York, on October 17, 2022.

Given under my hand and the official seal of said Town, at Canandaigua NY, in said county, on the October 18, 2022.


Jean Chrisman
Jean Chrisman, Town Clerk

development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

Final Classification: 2

Findings:

1. Protection of water features is a stated goal of the CPB.
2. The Finger Lakes are an indispensable part of the quality of life in Ontario County.
3. Increases in impervious surface leads to increased runoff and pollution.
4. Runoff from lakefront development is more likely to impact water quality.
5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties.
6. Protection of community character, as it relates to tourism, is a goal of the CPB.
7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character.
8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.

Final Recommendation: Denial

Comment

1. The Town is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.

15.1-2024	Town of Canandaigua	Planning Board	Rockcastle, Logan	Site Plan - Exempt
98.13-1-24.000	Site Plan and Area Variance(s) for the tear-down of an existing detached garage, accessory building, and deck, and for the proposed construction of an attached garage with additional site features (new sun-room and deck). Area variance(s) are required for: (1) increasing the building coverage to 29.8% when 25% is maximum allowed and (2) increasing the lot coverage to 48.7% when 40% is maximum allowed. Proposed work is located at 3485 Lakeview Lane in the Town of Canandaigua.			

16-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend zoning code section §220-33.1, amending the scenic viewshed overlay (SVO) portion of the Town Code of the Town of Canandaigua to clarify that the			

	minimum lot size in the SVO shall not be less than one acre, or the minimum size of the underlying zoning district whichever is greater.
--	--

<https://ontariocountyny.gov/DocumentCenter/View/41962/16-2024-LL-T-Canandaigua-Scenic-Viewshed-Overlay-District>

Local law 10-2022, amended the scenic viewshed overlay (SVO) portion of the Town Code of the Town of Canandaigua (§220-33.1) to clarify the minimum lot size in the SVO shall not be less than one acre, or the minimum size of the underlying zoning district whichever is greater. In some cases, in the Town of Canandaigua such as the AR-2 or RR-3 zoning districts the minimum lot size exceeds the one acre minimum. This amendment would clarify the minimum lot size of the underlying zoning district must be met for those zoning districts requiring greater than a one-acre lot size.

The amendment specifically occurs in Town Code Section 220-33.1D(1). Amendment changes text from “the minimum lot size in the SVO District is one acre” to “The minimum lot size in the SVO District *shall not be less than one acre or the minimum lot size of the underlying zoning district, whichever is greater*”.

Comment

1. Town Board needs to have a revote on the local law because the first vote occurred prior to a County Planning Board recommendation. Therefore, the previous vote does not meet state statute.

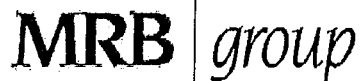
Board Motion: To retain referrals 16-2024, 17-2024, 18-2024, and 19-2024 as a class 2s and return them to the local board with recommendation for approval with comments. **Motion made by: AJ Magnan Seconded by: Leonard Wildman**
Vote: 12 in favor, 0 opposed, 0 abstentions. **Motion carried.**

17-2024	Town of Canandaigua	Town Board	Town of Canandaigua	Text Amendment - 2
n/a	Local Law to amend Town of Canandaigua Town Code Chapter 220 (Zoning), creating section 220-33.2 titled "Agricultural Protection Overlay District".			

<https://ontariocountyny.gov/DocumentCenter/View/41963/17-2024-LL-T-Canandaigua-Ag-Protection-Overlay-District>

Local Law 6-2022 amended Chapter 220 of Town Code, creating section 220-33.2, titled “Agricultural Protection Overlay District”. This section highlights the intent of the agricultural

ATTACHMENT 5



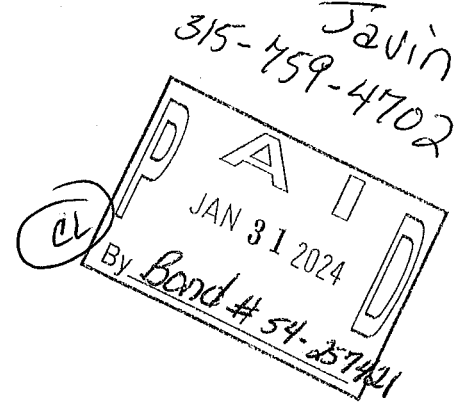
www.mrbgroup.com

Engineering, Architecture & Surveying, D.P.C.

August 8, 2023

Mrs. Jean Chrisman, Town Clerk
Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, New York 14424

RE: METROSE SUBDIVISION – 5100 AND 5150 BRISTOL ROAD
LETTER OF CREDIT ESTIMATE REVIEW
TAX MAP No. 83.00-1-7.150 & 83.00-1-8.000
CPN No. 21-005
MRB PROJECT No.: 0300.12001.000 PHASE 213



Dear Mrs. Chrisman,

Please be advised that MRB Group has completed a review of the submitted Letter of Credit Estimate dated June 28, 2023, last revised August 8, 2023 for the approved Final Subdivision Plans titled: Metrose 10-Lot Residential Conservation Subdivision, prepared by Marks Engineering.

Based on our review, the quantities and unit prices identified in the Letter of Credit Estimate are consistent with the approved plans and private contractor pricing respectively. Therefore, we recommend that a Letter of Credit be approved in the amount of **\$473,133.00**. A copy of the Applicant's Engineers Estimate is enclosed for your file.

Please note that the original surety documentation regarding the establishment of the Letter of Credit is required to be submitted to the Town Clerk for processing. Once the original is received by the Town Clerk, all information will be forwarded to the Town Attorney for review prior to being placed onto the Town Board agenda.

Any questions and/or comments you may have in this regard, please feel free to contact us at your earliest convenience.

Sincerely,

Lance S. Brabant, CPESC
Director of Planning & Environmental Services

Enclosures:

Applicant's Engineers Estimate dated June 28, 2023, last revised August 8, 2023



Marks Engineering

4303 Routes 5 & 20
Canandaigua, NY 14424

Town of Canandaigua Letter of Credit Estimate

Prepared by Marks Engineering, P.C.

42 Beeman Street Canandaigua N.Y. 14424

Project: Metrose 10-Lot Residential Conservation Subdivision

Date: 6/28/2023 Revised 8/8/2023

This letter of credit represents the probable construction costs in 2022 dollars to complete the site improvements as shown on the plans entitled "10-LOT RESIDENTIAL CONSERVATION SUBDIVISION" last revised 6/28/23. The plans and letter are subject to changes for town and agency final comments and approvals.

Section	Section Description	Amount (\$)
1	EROSION CONTROL	
	TOTAL	\$29,196
2	WATER DISTRIBUTION	
	TOTAL	\$53,660.00
3	STORMWATER INFRASTRUCTURE	
	TOTAL	\$55,185.00
4	PAVEMENTS AND ROADWAY	
	TOTAL	\$236,080.00
5	MISCELLANEOUS	
	TOTAL	\$56,000.00
	ESTIMATE	\$430,121
	10% CONTINGENCY	\$43,012
	TOTAL ESTIMATE	\$473,133

Please refer to attached documents for calculation details.

Estimate prepared by:

Brennan Marks, P.E.
President
Marks Engineering, P.C.





Item Description	Unit	Quantity	Unit Cost (\$)	Amount (\$)
Section 1: EROSION CONTROL				
Stabilize Construction Entrance	EA	1	\$625	\$625.00
Silt Fence	LF	1,500	\$3.00	\$4,500.00
Temporary Seed and Mulch	SY	9,075	\$0.75	\$6,806.25
Earthwork (Stripping and Grading)	CY	4,404	\$3.75	\$16,515.00
Concrete Wash Out Area	LS	1	\$750.00	\$750.00
			Subtotal:	\$29,196.25
Section 2: WATER DISTRIBUTION				
Water Taps	EA	10	\$450.00	\$4,500.00
Water Line 1" CTS	LF	830	\$12.00	\$9,960.00
Water Line 6" DR-14 PVC	LF	690	\$30.00	\$20,700.00
Fire Hydrants & Guard Valve Assembly Complete	EA	1	\$8,500.00	\$8,500.00
Testing & Disinfection w/ tap	EA	2	\$1,250.00	\$2,500.00
Tapping Sleeve and Valve	EA	1	\$7,500.00	\$7,500.00
			Subtotal:	\$53,660.00
Section 3: STORMWATER INFRASTRUCTURE				
Catch Basin	EA	6	\$1,250	\$7,500.00
End Section	EA	16	\$280	\$4,480.00
15" CPP Drain	LF	70	\$38	\$2,660.00
12" HDPE pipe	LF	330	\$34	\$11,220.00
8" CPP Drain	LF	580	\$31	\$17,980.00
6" CPP Roof Leader	LF	600	\$15	\$9,000.00
Cleanout	EA	1	\$185	\$185.00
Scour Stop	SF	180	\$12.00	\$2,160.00
			Subtotal:	\$55,185.00
Section 4: PAVEMENT and ROADWAY				
Road Grading & Compaction	SF	24,500	\$1.50	\$36,750
Geotextile	SF	24,500	\$1.00	\$24,500
Subbase	SF	24,500	\$1.50	\$36,750
Road Paving – Binder Coat	SF	24,500	\$1.50	\$36,750
Road Paving – Top Coat	SF	24,500	\$1.50	\$36,750
Concrete Gutter w/ weep & geotextile fabric	LF	950	\$18.00	\$17,100.00
Sidewalks	SF	5,141	\$7.00	\$35,987.00
Stop Sign	EA	1	\$750.00	\$750.00
Road Sign	EA	1	\$1,000.00	\$1,000.00
Road Paint	LF	40	\$4.50	\$180.00
Curb (Cul-de-Sac)	LF	255	\$37.50	\$9,562.50
			Subtotal:	\$236,080
Section 6: MISCELLANEOUS				
Tree Plantings	EA	10	\$650.00	\$6,500.00
Monumentation	LS	1	\$5,000	\$5,000
Infiltration Basin	EA	1	\$9,500.00	\$9,500.00
Engineering, Permitting & Records	LS	1	\$35,000	\$35,000
			Subtotal:	\$56,000.00

Jean Chrisman

From: Brabant, Lance <Lance.Brabant@mrbgroup.com>
Sent: Wednesday, August 9, 2023 11:29 AM
To: Jean Chrisman; Sarah Reynolds; Michael Murphy; Michael Warner; Kristin Smith; Jim Fletcher
Cc: Brennan Marks
Subject: RE: Metrose LOC Estimate Review
Attachments: Metrose Sub -LOC Estimate Review - MRB 8.9.23 - Updated.pdf

Here is the updated version as promised containing the Surety Estimate. Thank you.

LANCE BRABANT / MRB Group / 585.381.9250

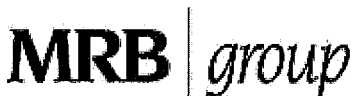
From: Brabant, Lance
Sent: Tuesday, August 8, 2023 4:58 PM
To: 'Jean Chrisman' <jchrisman@townofcanandaigua.org>; Sarah Reynolds <sreynolds@townofcanandaigua.org>; mmurphy@townofcanandaigua.org; Michael Warner <mwarner@townofcanandaigua.org>; Kristin Smith <ksmith@townofcanandaigua.org>; Jim Fletcher <jfletcher@townofcanandaigua.org>
Cc: Brennan Marks <bmarks@marksengineering.com>
Subject: Metrose LOC Estimate Review

Please see the attached letter of recommendation regarding our review of the submitted LOC Estimate last revised August 8, 2023 for the above referenced project. It is my understanding that in order for this to be placed onto the next Town Board agenda (August 21st) then the original LOC will need to be provided to the Town Clerk by noon on Friday, August 11th. I will send this out again tomorrow with the LOC Estimate as I am not able to scan it in until tomorrow.

Thank you.

LANCE BRABANT

Director of Planning & Environmental Services
d: 585.381.9250
c: 585.314.1667



The Culver Road Armory
145 Culver Rd #160, Rochester, New York 14620
t: 585.381.9250

www.mrbgroup.com

Crystelyn Laske

From: Chris Nadler <cnadler@cnadlerlaw.com>
Sent: Monday, February 5, 2024 6:13 PM
To: Crystelyn Laske
Subject: Re: PLEASE REVIEW - Bond Paperwork Metrose Subdivision

Crystelyn,

I approve the proposed surety bond as to form. It is ready to be placed on the Town Board agenda for acceptance.

Chris Nadler
LAW OFFICES OF
CHRISTIAN M NADLER
9 Mima Circle
Fairport, NY 14450
Phone # 585-315-4767

From: Crystelyn Laske <claske@townofcanandaigua.org>
Sent: Wednesday, January 31, 2024 2:44 PM
To: cnadler@cnadlerlaw.com <cnadler@cnadlerlaw.com>
Subject: PLEASE REVIEW - Bond Paperwork Metrose Subdivision

Chris
Will you please review the verbiage of the bond and confirm that it suits are needs and is acceptable to place before the board on Feb 12th?

Thank you,

Crystelyn Laske
Town Clerk-Receiver of Taxes
Town of Canandaigua
5440 Route 5 & 20 West
Canandaigua NY 14424
Office: 585-394-1120 Ext 2258
Fax: 585-394-9476



RECEIVED

JAN 31 2024

UNITED FIRE & CASUALTY COMPANY

Bond No. 54 - 257421

118 Second Avenue SE, PO Box 73909 Cedar Rapids, Iowa 52407-3909 319-399-5700

Performance Bond**CONTRACTOR:** (Name, legal status and address)City Hill Excavating, Inc.
2183-2199 State Route 14,
Penn Yan, NY 14527**SURETY:** (Name, legal status and principal place of business)UNITED FIRE & CASUALTY COMPANY
118 SECOND AVE SE
CEDAR RAPIDS, IA 52407**OWNER:** (Name, legal status and address)Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, New York 14424

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

CONSTRUCTION CONTRACT

Date: August 8, 2023

Amount: \$473,133.00

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Description: (Name and location)METROSE SUBDIVISION - 5100 AND 5150 BRISTOL ROAD
LETTER OF CREDIT ESTIMATE REVIEW
TAX MAP NO. 83.00-1-7.150 & 83.00-1-8.000
CPN NO. 21-005
MRB PROJECT NO.: 0300.12001.000 PHASE 213
BOND

Date: January 31, 2024

(Not earlier than Construction Contract Date)

Amount: \$473,133.00

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL

Company:

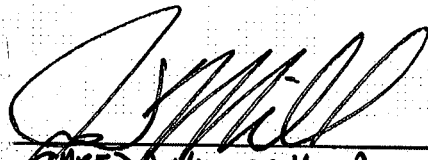
City Hill Excavating, Inc.

SURETY

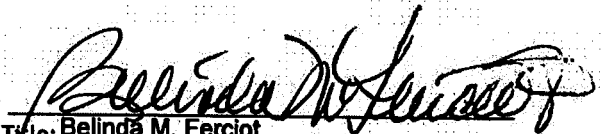
(Corporate Seal) Company: UNITED FIRE & CASUALTY COMPANY (Corporate Seal)

Signature:

Name and Title:


JAMES P. MILLER, VICE PRESIDENT

Signature:

Name and Title: Belinda M. Ferciot
Attorney-in-Fact

(Any additional signatures appear on the last page of this Performance Bond)

(FOR INFORMATION ONLY - Name, address and telephone)

AGENT or BROKER:AssuredPartners of Maryland, LLC /
Reginald Jarvis
7556 Teague Road, Suite 300,
Hanover, MD 21076
301-708-0382
CONT0526 (072010)**OWNER'S REPRESENTATIVE:** (Architect, Engineer or other party:)

MRB Group

The language in this document conforms exactly to the language in AIA Document A312-2010 edition

§ 1 The Contractor and Surety, jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1** the owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2** the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3** the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1** After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2** Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

CONT0526 (072010)

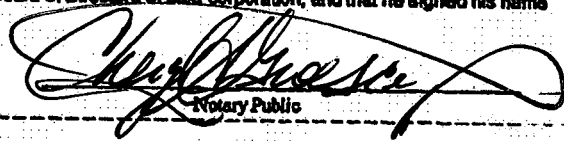
The language in this document conforms exactly to the language in AIA Document A312-2010 edition

Corporation
Acknowledgement

State of New York
County of YATES } ss.
On this 31st day of January, 2024, before me personally came
JARED A. MILLER to me known,
who being by me duly sworn, did depose and say that he is the VICE PRESIDENT

of City Hill Excavating Inc.
the corporation described in and which executed the above instrument; that he knows the seal of said corporation; the the seal affixed to said
instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name
thereto by like order.

CHERYLA GROESCUP
Notary Public, State of New York
No. 01GR6053034
My commission expires
Qualified in Ontario County
Comm. Expires January 2, 2027


Notary Public

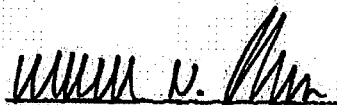
Surety
Acknowledgement

State of Maryland
County of Anne Arundel } ss.
On this 31st day of January, 2024, before me personally came
Belinda M. Ferciot to me known, who, being by me duly sworn, did depose and say that

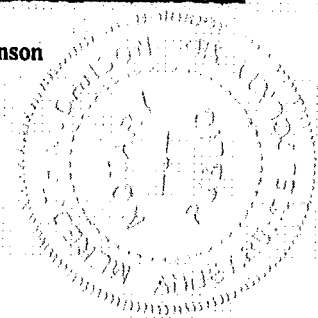
he is attorney-in-fact of United Fire & Casualty Company
the corporation described in and which executed the above instrument; that he knows the corporate seal of said corporation; that the seal affixed
to the within instrument is such corporate seal, and that he signed the said instrument and affixed the said seal as Attorney-in-Fact by authority
of the Board of Directors of said corporation and by authority of this office under the Standing Resolutions thereof.

My commission expires 02/27/2027

FORM # 13



Notary Public
Meredith N. Johnson





UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA
UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX
FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA
CERTIFIED COPY OF POWER OF ATTORNEY
(original on file at Home Office of Company - See Certification)

Inquiries: Surety Department
118 Second Ave SE
Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

REGINALD P. JARVIS, DEBRA L. STEWART, BELINDA M. FERCIOT, MICHAEL E. SCHENDEL, EUGENE A. BARTOLI, MICHAEL COMINSKY, ANDREW J. PORTER, BRITTANY H. FERCIOT, MICHAEL GALLOPS, MEREDITH N. JOHNSON, EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$30,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted shall expire the 18th day of January, 2024 unless sooner revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.


This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

"Article VI - Surety Bonds and Undertakings"

Section 2, Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby: such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal of the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 18th day of January, 2022

UNITED FIRE & CASUALTY COMPANY
UNITED FIRE & INDEMNITY COMPANY
FINANCIAL PACIFIC INSURANCE COMPANY

By: 
Vice President

State of Iowa, County of Linn, ss:

On 18th day of January, 2022, before me personally came Kyanna M. Saylor to me known, who being by me duly sworn, did depose and say; that she resides in Cedar Rapids, State of Iowa; that she is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that she knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that she signed her name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.

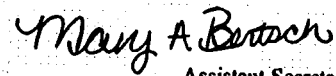



Notary Public
My commission expires: 10/26/2025

I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations this 31st day of January, 2024.



By: 
Assistant Secretary,
UF&C & UF&I & FPIC

UNITED FIRE AND CASUALTY COMPANY

P.O Box 73909, Cedar Rapids, IA. 52407

Statement of Financial Condition As Of December 31, 2022

ASSETS

Bonds	\$728,330,998
Stocks	489,443,543
Real Estate and Equipment	43,046,869
Cash in Banks and Offices and Short Term Investments	200,229,538
Premiums in Course of Collection (less than 90 days old)	306,595,891
Reinsurance and Other Accounts Receivable	47,474,988
Deposits and Other Non Invested Assets	123,757,079
Total Admitted Assets	<u>\$1,938,878,906</u>

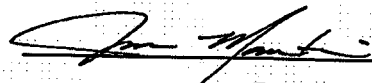
LIABILITIES, SURPLUS AND OTHER FUNDS

Reserve for Unearned Premiums	\$282,103,082
Reserve for Claims and Claim Expense	895,733,447
Reserve for Taxes and Expense	43,333,834
Total Liabilities	<u>\$1,221,170,363</u>
Capital Stock and Paid In Capital	\$213,100,301
Surplus Notes	50,000,000
Surplus	454,608,242
Surplus as regards Stockholders	717,708,543
Total	<u>\$1,938,878,906</u>

Securities carried at \$85,908,216 in the above statement are deposited as required by law.

Securities carried on the basis prescribed by the National Association of Insurance Commissioners. On the basis of December 31, 2022 market quotations for all bonds and stocks owned, the Company's total admitted assets would be \$1,938,878,906 and surplus as regards shareholders \$717,708,543.

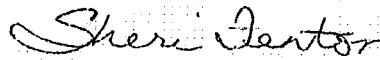
I, Janice A. Martin, Treasurer of United Fire and Casualty Company, do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company on the 31st day of December, 2022


Treasurer

State of Iowa
City of Cedar Rapids } SS:

Subscribed and sworn to, before me, a Notary Public of the State of Iowa in the City of Cedar Rapids, this
23rd day of March, 2023




Notary Public

State of New York

DEPARTMENT OF FINANCIAL SERVICES

WHEREAS IT APPEARS THAT

United Fire & Casualty Company

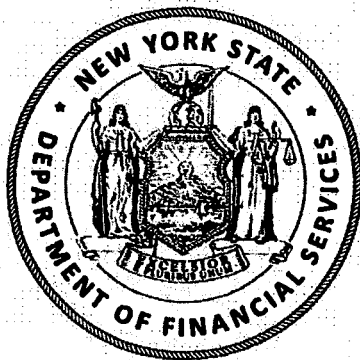
Home Office Address Cedar Rapids, Iowa

Organized under the Laws of Iowa

has complied with the necessary requirements of or pursuant to law, it is hereby

licensed to do within this State the business of

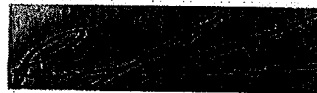
accident and health, fire, miscellaneous property, water damage, burglary and theft, glass, boiler and machinery, elevator, animal, collision, personal injury liability, property damage liability, workers' compensation and employers' liability, fidelity and surety, credit, motor vehicle and aircraft physical damage, marine and inland marine and marine protection and indemnity insurance, as specified in paragraph(s) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21 of Section 1113(a) of the New York Insurance Law and also such workers' compensation insurance as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a), including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Cong. as amended; 33 USC Section 901 et seq. as amended) to the extent permitted by certified copy of its charter document on file in this Department until July 1, 2024.



**In Witness Whereof, I have hereunto set
my hand and affixed the official seal of this
Department at the City of Albany, New York, this
1st day of July, 2023**

**Adrienne A. Harris
Superintendent**

By



**Rawle Lewis
Acting Special Deputy Superintendent**

Original on Watermarked Paper

**STATE OF NEW YORK
DEPARTMENT OF FINANCIAL SERVICES**

**CERTIFICATE OF SOLVENCY UNDER SECTION 1111 OF THE NEW YORK INSURANCE
LAW**

It is hereby certified that

**United Fire & Casualty Company
of Cedar Rapids, Iowa**

a corporation organized under the laws of Iowa and duly authorized to transact the business of insurance in this State, is qualified to become surety or guarantor on all bonds, undertakings, recognizances, guaranties and other obligations required or permitted by law; and that the said corporation is possessed of a capital and surplus including gross paid-in and contributed surplus and unassigned funds (surplus) aggregating the sum of \$711,841,873. (Capital \$7,000,000), as is shown by its sworn financial statement for the quarter ending, March 31, 2023, on file in this Department, prior to audit.

The said corporation cannot lawfully expose itself to loss on any one risk or hazard to an amount exceeding 10% of its surplus to policyholders, unless it shall be protected in excess of that amount in the manner provided in Section 4118 of the Insurance Law of this State.



In Witness Whereof, I have here-
unto set my hand and affixed the
official seal of this Department
at the City of Albany, this 21st
day of July 2023.

**Adrienne A. Harris
Superintendent**

By

**Rawle Lewis
Acting Special Deputy Superintendent**