

Canandaigua Town Board
Meeting Agenda
January 20, 2015
6:00pm

1. Call To Order and Pledge of Allegiance
 - Pledge led by Keith Cutri, Town Board Member
2. Roll Call
 - Town Clerk Confirmation meeting was properly advertised
3. Circulation of Written Communications and Correspondence
 - Letter, NYS Department of Environmental Conservation, William Nechamen, Chief Floodplain Management Section, FEMA RiskMap Program, includes response from P. Helming to NYSDEC
 - Letter, NYS Division of Homeland Security and Emergency Services, Susan Picarillo, Deputy Director for Recovery and Mitigation, FEMA Payment
 - Letter, NYS Association of Town of Superintendents of Highways, Inc, Russ Page, President, letter to Michael Meade, Director, Intergovernmental Affairs Bureau, Office of the Attorney General (in response to Resolution #2014-217)
 - Letter, NYS Department of Public Service, Audrey Zibelman, Chair, Reforming the Energy Vision
 - Letter, Canandaigua Lake Watershed Association, Tom Zimmerman, President, Aquatic Invasive Species Proposal, includes response from P. Helming to CLWA
 - Letter, Ontario County Soil and Water Conservation Department, Mr. Tad Gerace, 2015 Tree & Shrub Program
 - Newsletter, Nationwide Strategic Advantage
4. Privilege of the Floor
5. Presentations
 - ❖ Chief Mark Marentette, City of Canandaigua, Annual Fire Report, 15 minutes
6. Public Hearings
7. Priority Business
8. Reports of Town Officials and Department Heads
 - A. Director of Parks & Recreation – Attachment #1
 - B. Highway Superintendent
 - C. Water Superintendent
 - D. Assessor
 - E. Development Director
 - F. Historian – Attachment #2
 - G. Town Clerk
 - H. Supervisor
9. Reports of Committees, Boards, and Commissions
 - A. Planning Board
 - B. Zoning Board of Appeals
 - C. Environmental Conservation Board – Update on the ECB Annual Report
 - D. Public Works Committee
 - E. Technology Committee
 - F. Safety/Security Committee
 - G. Strategic Planning Committee
 - H. Citizens Implementation Committee
 - I. Personnel Committee
10. Privilege of the Floor

11. Resolutions

Continued Resolutions

RESOLUTION 2014- 205: LETTER OF CREDIT FOR THE VILLAS SECTION 3

WHEREAS, the Town of Canandaigua Planning Board has granted final subdivision approval for development and construction of a 36 lot subdivision that includes 36 townhomes to be known as the Villas Section 3;

WHEREAS, the Town of Canandaigua Planning Board's conditions of approval dated April 23, 2013 require a landscaping and soil erosion surety to be established;

WHEREAS, the property owner's engineering firm has estimated an amount of \$ 319,150.32 for water mains, storm sewers, pavement, grading, and town guarantees;

WHEREAS, the town engineer has reviewed and approved of the estimate in a letter dated July 19, 2013, and confirmed November 3, 2014 (Attachment #2);

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua hereby approves and accepts a landscaping soil erosion control surety in the form of a letter of credit for the amount of \$ 319,150.32.

RESOLUTION 2014- 232: APPROVAL OF CREDIT CARD POLICY

WHEREAS, the Canandaigua Town Board expressed an interest in providing a credit card payment option for the convenience of our customers; and

WHEREAS, the Town Board of the Town of Canandaigua requested a policy addressing: 1. the use of credit cards by the public for the payment of certain services; and 2. the use of Town owned credit cards and credit accounts by authorized Town employees; and

WHEREAS, on November 24, 2014, the Town Clerk presented the Town Board with a draft policy (Attachment 5) addressing both the use of credit cards by the public for the payment of certain services and the use of Town owned credit cards and accounts by authorized Town employees; and

THEREFORE BE IT RESOLVED, the Town Board hereby accepts the Policy and Procedure for the Use of Credit Cards and directs the Town Clerk to forward a copy of the policy to each department manager.

New Resolutions

DRAFT RESOLUTION 2015- 29: REQUEST TO PURCHASE HIGHWAY EQUIPMENT

WHEREAS, the Highway Superintendent is requesting Town Board approval to purchase the following equipment:

- One - 2015 10 wheel dump truck with a complete plow package
- One - 2015 ¾ ton extended cab long box pick up
- One - 2015 ½ ton extended cab pickup truck
- One - backhoe
- 30 - two-way radios to replace the outdated UHF to 700 MHZ frequency.
- One - 1.5 ton double drum roller; and

WHEREAS, these purchases will be made in accordance with Article 5-A of the General Municipal Law and the Town of Canandaigua's Procurement Policy; and

WHEREAS, if approved this equipment will be paid for from Line D.5130.200 of the Town of Canandaigua 2015 Adopted Budget which includes the following cost estimates:

Equipment	Budget Estimate	2015 Cost Proposal Received
2015 10 Wheel Dump Truck	\$235,000.00	
2015 ¾ Ton Extended Cab Long Box Pick-Up Truck	\$38,500.00	
2015 Extended Cab Pick-Up Truck	\$29,000.00	
Backhoe	\$95,000.00	
2-Way Radios	\$40,000.00	
1.5 Double Drum Roller	\$15,000.00	
Total Estimated Cost	\$452,500	

THEREFORE BE IT RESOLVED, the Canandaigua Town Board hereby approves the purchase of this equipment at a cost not to exceed _____ or

THEREFORE BE IT RESOLVED, the Canandaigua Town Board hereby approves the Highway Supervisor going out to bid for the above equipment.

RESOLUTION 2015- 30: REQUEST TO FILL A VACANT MEO POSITION

WHEREAS, the Town of Canandaigua Highway Department has a full-time Motor Equipment Operator position open; and,

WHEREAS, Highway Superintendent Jim Fletcher has confirmed there is a need to fill this position in order to continue to provide and maintain safe roadways; and

WHEREAS, on November 14, 2014, Superintendent Fletcher conducted interviews with interested candidates and based upon the interview and application review, Superintendent Fletcher is recommending the Town Board hire Mr. Kevin Pollock for the position; and

NOW THEREFORE BE IT RESOLVED, that the Canandaigua Town Board hereby approves the hiring of Mr. Kevin Pollock to fill the currently open MEO position; and

BE IT FUTHER RESOLVED, 1. this hiring will be effective January 26, 2015, contingent upon Superintendent Fletcher providing the Town Supervisor with the required new employee paperwork including a completed Ontario County Employment Application, written documentation of 3 reference checks, a completed Ontario County Report of Personnel Change form, and the correctly completed I-9 certifications; and

2. Mr. Pollock shall be paid bi-weekly at a rate of \$20.00/hour, to be charged to the 2015 Adopted Budget Lines _____ and _____; and,

3. The Town Clerk is hereby directed to provide copies of this resolution to Mr. Kevin Pollock, Superintendent Fletcher, and the Town Supervisor (for the personnel file).

RESOLUTION 2015-31: RECOMMENDATION FOR THE PURCHASE OF WASTE & RECYCLING EQUIPMENT

WHEREAS, Senator Nozzolio on behalf of the Town of Canandaigua secured \$50,000 in funding from the Dormitory Authority of State of New York (DASNY); and

WHEREAS, the intent of this funding is to provide a means for the Town to upgrade certain Transfer Station operations and equipment; and

WHEREAS, the Public Works Committee was charged with determining the best use of these funds and is now recommending the Town Board authorize the following improvements and expenditures:

- A 14 x 20 building that meets the NYS Department of Environmental Conservation requirements for used electronics storage; estimated cost \$9,800.00; and a
- 250- gallon waste oil tank that meets the NYS Department of Environmental Conservation Petroleum Bulk Storage requirements; estimated cost \$2,500.00; and a
- Waste Trash Compactor; estimated cost \$ _____; and a
- 40-yard storage container; estimated cost \$ _____; and,

WHEREAS, the DASNY grant requires the Town to pay for these purchases up front and seek subsequent reimbursement therefore the Public Works Committee is recommending a temporary loan from Line _____ of the 2015 Adopted Budget to purchase this equipment; and

NOW THEREFORE BE IT RESOLVED, that the Canandaigua Town Board hereby authorizes the Highway Superintendent to make the purchases described above in accordance with the Town of Canandaigua Procurement Policy at a cost not to exceed \$ _____; and

BE IT FURTHER RESOLVED, 1. the Canandaigua Town Board hereby approves a temporary loan from Line _____ of the 2015 Adopted Budget for the purchase of this equipment with the understanding this line may not be overdrawn at any time; and 2. the Canandaigua Town Board hereby directs the Town Clerk to forward copies of this resolution to the Town Bookkeeper and EFPR Solutions.

RESOLUTION 2015-32: INTEGRATED SYSTEMS PROPOSAL FOR PHONE UPGRADES

WHEREAS, following an advertised RFQ process, the Town Board previously approved the recommendation of the Technology Committee to purchase a new phone system from Integrated Systems; and

WHEREAS, based upon the approved RFQ and subsequent consultations with Town employees, Integrated Systems has prepared a final purchase proposal (Attachment 3); and

NOW THEREFORE BE IT RESOLVED, that the Canandaigua Town Board hereby authorizes
1. the purchase of the items identified on Attachment 3 at a cost not to exceed \$17,579.01;
and 2. authorizes the Town Supervisor and the Town Clerk to schedule the installation of these items and 3. directs the Bookkeeper to pay for this purchase from _____ of the 2015 Adopted Budget.

RESOLUTION 2015-33: TOWN OF CANANDAIGUA CODE OF ETHICS

WHEREAS, Town Code Chapter 21 requires the Supervisor to provide a copy of the Code of Ethics to every municipal officer and employee; elected and appointed, and

WHEREAS, the Town Board should periodically review the Code (Attachment 4), and

NOW THEREFORE BE IT RESOLVED, the Town Board has reviewed the Ethics Code and has determined it (does / does not) require updates and should be distributed in its (current form / revised form) to all employees.

RESOLUTION 2015-34: RE-APPOINTMENT TO THE ZONING BOARD OF APPEALS

WHEREAS, Terence Robinson has served on the Zoning Board of Appeals for more than five years and was recently appointed to the position of Chairperson of the Board; and

WHEREAS, during his time on the Board Mr. Robinson has served the community well and it is the desire of the Town Board to reappoint Terence Robinson to the Zoning Board of Appeals; and

NOW THEREFORE BE IT RESOLVED, the Town Board hereby 1. appoints Terence Robinson for a term beginning on January 1, 2015 and expiring on December 31, 2019; and 2. directs the Town Clerk to update the official committee roster and provide this information, if needed to the NYS Association of Towns and the Ontario County Planning Department, and 3. directs the Supervisor's office to file a Report of Personnel Change with the office of Ontario County Human Resources.

RESOLUTION 2015-35: TOWN CLERK ANNUAL REPORT

WHEREAS, in accordance with Town Law 123, the Town Clerk has provided the Town Board and the Town Supervisor with her annual accounting report (Attachment 5) as well as access to her accounting records; and

WHEREAS, members of the Town Board were provided an opportunity to review this information and complete the required annual audit prior to January 20, 2015; and

NOW THEREFORE BE IT RESOLVED, the Town Board accepts the annual report of the Town Clerk and finds her records to be in order.

RESOLUTION 2015-36: TOWN JUSTICE'S ANNUAL REPORTS

WHEREAS, in accordance with section 2019-a of the Uniform Justice Court Act, the Town Justices have made available their annual report (Attachment 6) and court records and dockets for examination or audit by the town board; and

WHEREAS, members of the Town Board were provided an opportunity to review this information and complete the required annual examination or audit prior to January 20, 2015; and

NOW THEREFORE BE IT RESOLVED, the Town Board accepts the annual reports of the Town Justices and finds these records to be in order.

RESOLUTION 2015-37: CALLING UPON OUR ELECTED OFFICIALS TO REFORM THE TAX CAP PROGRAM

WHEREAS, the NYS Comptroller's 2014 Annual Report on Local Governments included a review of property tax levy growth for the years 2003 – 2013 and found property tax levy growth slowed significantly even before the enactment of the tax cap program; and

WHEREAS, the majority of NYS Towns manage their finances responsibly and levy at or below the allowable limit despite the increased state mandates, decreased state and federal assistance, and rising costs; and

WHEREAS, under the current NYS tax cap program and the restraints on how a town can raise revenue, it will become increasingly difficult to maintain healthy and prosperous communities; and

THEREFORE BE IT RESOLVED, now is the time for our state officials to make the property tax program work better for all New Yorkers by making the following changes:

- Provide exemptions for costs such as pension contributions, health insurance, debt service, and contract obligations such as ambulance, fire, and emergency services; and
- Allow for exemptions for costs associated with maintaining safe streets such as road maintenance, repairs, renovations and snow removal; and
- Allow for exemptions for projects needed to attract and retain homeowners, business and industry such as capital projects and infrastructure improvements in utilities, transportation, and communications; and
- Permit exemptions for public health emergencies; and

BE IT FURTHER RESOLVED, that the Town of Canandaigua calls upon the Governor and our state leaders to lower property taxes for all New Yorkers by eliminating or funding state mandates and providing meaningful state aid to our community.

RESOLUTION 2015-37: PURDY / MOBILE ROAD SEWER PROJECT

WHEREAS, the above Project was designed to eliminate a public health hazard in a low-income area of the Town, and

WHEREAS, the Project was completed, and/or is anticipated to be completed, under budget and under the maximum cost set forth in the sewer extension formation documents, and

WHEREAS, surplus Project monies are available to insure that low-income owners within the Project area are able to connect to the Project sewer system and thereby fulfill the public purpose of the Project, and

WHEREAS, the Town Board deems the hook-up fees to be legitimate soft-costs that may be capitalized in the debt service of the Project, **and**

WHEREAS, the Town Board has received the opinion of the Town Attorney (Attachment 8); and

NOW, THEREFORE, BE IT RESOLVED that, the Town Board hereby

1. Authorizes that surplus Project monies may be applied towards hook-up fees in the Project area to insure that the public purpose of the Project is fulfilled.

RESOLUTION 2015-38: UPDATED MEMORANDUM OF AGREEMENT BETWEEN CANANDAIGUA-FARMINGTON WATER DISTRICT AND THE MONROE COUNTY WATER DISTRICT

WHEREAS, The Town Board previously approved a Letter Agreement for Emergency Water Supply between the Canandaigua-Farmington consolidated water district and the Monroe County Water Authority by resolution 2014-204, and

WHEREAS, The Monroe County Water Authority has requested an updated Letter Agreement, dated 12/22/2014, Attachment 9, to clarify that the Emergency Water Agreement benefits the Monroe County Water Authority without geographic restriction to a Victor service area,

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua on behalf of the Canandaigua-Farmington Consolidated Water District hereby approves the Letter Agreement, dated 12/22/2014, and,

BE IT FURTHER RESOLVED, copies of this resolution and its attachments shall be furnished to the Farmington Town Board and Ontario County for approval.

RESOLUTION 2015 – 39: PROFESSIONAL SERVICES AGREEMENT FOR IT SERVICES INTEGRATED SYSTEMS

WHEREAS, the Town of Canandaigua Technology Committee has conducted a RFP for IT Services and is recommending the Town engage the services of Integrated Systems (Attachment 10); and,

NOW THEREFORE BE IT RESOLVED, the Canandaigua Town Board approves of the proposed IT Services agreement and hereby directs the Supervisor to sign the contract.

RESOLUTION 2015 – 40: PROFESSIONAL SERVICES AGREEMENT FOR PLANNING AND ZONING BOARD ATTORNEY

WHEREAS, the Canandaigua Town Planning Board and the Zoning Board of Appeals wish to re-appoint Chris Nadler as the Boards Attorney; and

WHEREAS, Attorney Nadler has provided a proposed services contract at the 2014 rates (Attachment 11); and,

NOW THEREFORE BE IT RESOLVED, the Canandaigua Town Board approves of the proposed service agreement and hereby directs the Supervisor to sign the contract.

RESOLUTION 2015 – 41: ESTABLISHING A PUBLIC HEARING ON TEXT CODE AMENDMENTS TO THE CANANDAIGUA TOWN CODE

WHEREAS, the Town Board of the Town of Canandaigua has received a number of proposed text amendments as part of the Town Code by the Town of Canandaigua Planning Board; and

WHEREAS, the Town Board would like to provide for an opportunity for the members of the Town Board, Planning Board, Zoning Board of Appeals, Environmental Conservation Board, and other interested stakeholders time to review the proposed code amendments; and

WHEREAS, the Town Board would like to introduce the proposed text amendments for consideration as a local law; and

NOW THEREFORE BE IT RESOLVED, the Town Board of the Town of Canandaigua thanks the Planning Board for their recommendations; and

BE IT FURTHER RESOLVED, the Town Board directs the Director of Development to provide copies of the proposed amendments for feedback and review from the Planning Board, Zoning Board of Appeals, Environmental Conservation Board, and the County Planning Board; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Canandaigua hereby establishes a public hearing on the proposed amendments to be held at 6pm on February 23, 2015 in the Canandaigua Town Board Meeting Room, 5440 State Route 5&20 West, Canandaigua, NY.

RESOLUTION 2015 – 42: 2014 JUSTICE DEPARTMENT BUDGET TRANSFER

WHEREAS, an application was submitted for grant funding to aide with upgrades to the court room for enhanced security; and

WHEREAS, the application was approved for \$4,000.00; and

WHEREAS, the funds were received and deposited; and

WHEREAS, the equipment has been purchased and the invoices paid;

NOW THEREFORE BE IT RESOLVED, the Canandaigua Town Board hereby directs the Budget Officer to amend the 2014 budget as follows to reflect the grant monies received and increase the Justice equipment expenditure account:

Increase A.3089, JCAP, by \$4,000.00

RESOLUTION 2015 – 43: 2014 WATER DEPARTMENT BUDGET TRANSFERS

WHEREAS, expenses for engineering, maintenance and improvements for the water districts have exceeded originally budgeted amounts; and

WHEREAS, revenues for water rents have exceeded budgeted amounts; and

WHEREAS, Water Superintendent, Jim Fletcher agrees with the use of a portion of these additional funds to offset the increases in expenditures;

NOW THEREFORE BE IT RESOLVED, the Canandaigua Town Board directs the Budget Officer to amend the 2014 budget as follows:

Increase Revenue account F.2140, Water Rents by \$41,178.67

Increase Expenditure account F.8310.450, Engineering by \$6,603.18

Increase Expenditure account F.8340.440, Service & Maintenance by \$5,565.98

Increase Expenditure account F.8340.450, Improvements by \$24,400.06

Increase Expenditure account F.8320.420, Utilities by \$2,918.81

Increase Expenditure account F8320.400, Water Purchases by \$1690.64

RESOLUTION 2015 – 44: 2014 INTERFUND TRANSFERS

WHEREAS, the following Interfund Transfers are requested:

Account #	Description	To	From
	GENERAL		
A.1990.400	Contingency		21987.50
A.1010.110	Town Board, Elected	.32	
A.1220.110	Supervisor, Elected	164.55	
A.1220.120	Supervisor, Deputy	.18	
A.1220.400	Supervisor, Contractual	9358.30	
A.1340.120	Budget Officer, Pers Svcs	2.76	
A.1420.400	Attorney, Contractual	1156.91	
A.4020.100	Registrar, Pers Svcs	38.44	
A.5182.400	Street Lighting, Contractual	640.31	
A.7110.402	Park – Tree & Landscape	464.50	
A.9010.800	NYS Retirement	11,523.00	
A.1355.120	Assessor, PS	760.65	
A.1355.131	Assessor, Aide FT		760.65
A.1430.142	Personnel, Clerk, PT	1891.91	
A.1430.141	Personnel, Clerk, PT		1891.91
A.1670.400	Printing & Mailing, Contractual	3778.50	
A.1670.200	Central Printing, Equipment		3778.50
A.1680.400	Data Processing, Contractual	227.66	

A.1680.200	Data Processing, Equipment		227.66
A.5010.110	Highway Supt, Elected	.02	
A.5010.130	Highway, Account Clerk		.02
A7110.130	Park, Asst, FT	7820.90	
A.7110.131	Laborer, PT, PS		7820.90
A.7110.402	Park- Tree & Landscape	1,568.00	
A.7110.403	Park – Supplies & Repairs	119.04	
A.7110.200	Park, Equipment		615.08
A.7110.400	Park – Contractual		1,071.96
A.8010.122	Zoning, CEO, PT	1816.44	
A.8010.121	Zoning, CEO		1816.44
A.8010.131	Zoning, Micro, Computer Op	1373.75	
A.8010.141	Zoning, Inspector, FT		1373.75
A.8010.124	Zoning, CEO, FT	8,871.68	
A.8010.141	Zoning, Inspector, FT		8,871.68
A8010.400	Zoning Inspector, Contractual	2000.00	
A.8020.450	Environmental Consultant		2,000.00

A.8020.140	Stenographer, PT, Pers Svcs	850.08	
A.8020.410	Engineering , Contractual		850.08
A.8040.120	Zoning Bd of Appeals, PS	145.60	
A.8040.140	Zoning Bd of Appeals, Sec, PS		145.60
A.9010.800	NYS Retirement	11523.00	
A.1990.400	Contingency		11523.00
D.5110.130	General Repairs, Wages, FT	219147.66	
D.5142.130	Snow Removal, Wages, FT		210805.81
			8341.85
D.5110.400	General Repairs, Contractual	60716.63	
D.5130.200	Machinery, Equipment		60716.63
D.5130.400.101	Machinery, Contractual, AR#1	2345.95	
D.5130.400.103	Machinery, Contractual, AR#3	175.00	
D.5130.400.104	Machinery, Contractual, AR#4	38.70	
D.5130.400.201	Machinery, Contractual, Trk#1	27.98	
D.5130.400.217	Machinery, Contractual, Trk #17	160.31	
D.5130.400.320	Machinery, Contractual, Ex #20	94.14	
D.5130.400.324	Machinery, Contractual, Ex #24	723.53	
D.5130.400.327	Machinery, Contractual, Trac#27	2,628.92	
D.5130.400.361	Machiney, Contractual, Backhoe #61	66.73	

D.5130.400.365	Machinery, Contractual, Ex #65	97.43	
D.5130.400	Machinery, Contractual		1826.90
D.5130.200	Machinery, Equipment		4531.79

NOW THEREFORE BE IT RESOLVED, the Canandaigua Town Board hereby authorizes the Budget Officer to make the requested Interfund Transfers.

12. Approval of the following Minutes:
January 5, 2015 Meeting Minutes
13. Approval of Charge Back Billing – See Attachment #7
14. Payment of the Bills
 - Abstract Claim Fund Totals presented by Town Clerk
 - Voucher Summary Report for Town Board signatures
(By signing, Town Board members represent they have reviewed & approve of the prepared Voucher Summary Report and the attached invoices)
15. Privilege of the Floor
16. Other Business
17. Privilege of the Floor
18. Executive Session, as requested
19. Adjournment

Attachment #1 – Parks & Recreation and Trails Report

To Town Board Members:

The following are items I will discuss at the town board meeting on Tuesday.

Summer programs for 2015

Program for individuals with autism

Park goals for 2015 (copy enclosed)

Maintenance and lawn service positions

Trails minutes from January 12, 2015 (copy enclosed)

Next park and recreation meeting February 5, 2015

Next trail meeting – date not set

Thanks, -



Dennis

Town of Canandaigua

Parks and Recreation

Goals for 2015

West Lake Schoolhouse:

- Add a couple of trees
- Paint the schoolhouse
- Put a roof on the schoolhouse
- Improve landscaping
- Mulch around flower beds and sign

Blue Heron Park

- Add a Port-a- John
- Finish disc golf course
- Add longer tees at the course
- Signage for new tees
- Clean out the pond
- Add trees
- Landscaping
- Lengthen trail and add stone dust
- Mulch trees and flower beds

page 2

McJannett Park

- Replace old picnic tables
- Add stone to parking lot
- Add signage – Name of park and history

Leonard R. Pierce Park

- Put up playground
- Add playground mulch
- Improve softball field
- Put sand in volleyball court
- Replace roofs on pavilions
- Improve landscaping

Richard P. Outhouse Memorial Park

- Put up flagpole with lightning
- Improve building – men's bathroom door, exterior door, sound blocks
- Add sidewalks from parking lots to activities such as fitness center, playground and trail
- Add and improve landscaping
- Improve and lengthen trail
- Seal basketball court and add lines for basketball and pickleball
- Mulch trees and beds

Onanda Park

- Replace 3 roofs
- Add stone by steps at Babcock
- Add playground mulch
- Improve and add landscaping
- Improve bathrooms in Babcock
- Seal blacktop area and add lines for basketball, tennis and pickleball
- Replace trees
- Mulch trees and beds
- Replace porch on Wacona
- Replace some items in Gorham kitchen

Miller Park

- Begin to develop
- Pick and design parking area
- Get quotes for plantings

Town of Canandaigua

Trails Committee

Minutes from January 12, 2015 meeting

Present: David Sauter, Adeline Rudolph, Kevin Reynolds, Michael Crane, Dennis Brewer

Approved the minutes from the November 17, 2014 meeting

Went over the job openings for the Town of Canandaigua – maintenance, lawn service, recreation

Updated Miller Park: naming, trail

Discussed the sidewalks in Cheshire -- need to hear from the residents

Continued the update of the Town of Canandaigua Trails Master Plan. Need to add more information on trail types. We need to make changes to the "Recommended Trail Standards" section. Dennis will check with Doug to see if we can get updated pictures of the parks and other areas.

The committee discussed the goals for 2015. It was decided the first one would deal with connecting Blue Heron -- Richard P. Outhouse Memorial Park -- Old Brookside -- Miller Park. The committee will meet with Doug for possible locations of a trail.

The committee would like to see a plan developed to finish the off road trail on Middle Cheshire Road to connect to Switchback Trail.

There is concern about the Switchback Trail as only a chain was put across the entrances. One has been taken down. The signs that the town had made with "Switchback Trail" have not been put up.

We would like to see a sign - up sheet for people that use our trails.

The next meeting will be with Doug. The date hasn't been set.

Submitted by Dennis Brewer

Attachment #2 – Historian's Report

January 19th Town Board Meeting:

Historian's Report

1. Historian's Annual Report will be finished this week and distributed to Town Board members, County and NYState Historians.
2. This week training is scheduled to begin for ONCOR barn data.
3. An article for the Daily Messenger has been submitted.

-Ray Henry, Historian

Attachment #3 – Integrated Services Phone Proposal

**Town of Canandaigua VOIP Meeting
1/14/2015**

Quantity	Item	Sell Price	Total Cost
Phone System			
1	Control Unit	452.49\$	452.49\$
1	SD Card	35.11\$	35.11\$
2	Analog Extension 2 phones	174.24\$	348.48\$
1	32 Voice Channels	121.90\$	121.90\$
3	4 Analog Trunk Cards	489.72\$	1,469.16\$
1	Power Cord	12.59\$	12.59\$
1	Rack Mounting Kit	41.74\$	41.74\$
2	Cisco SF200-24FP	495.00\$	990.00\$
Software Licenses			
1	Essential License	338.54\$	338.54\$
1	Additional VoiceMail Ports	273.61\$	273.61\$
2	IP Enpoint (5)	256.39\$	512.78\$
1	IP Enpoint (20)	1,026.88\$	1,026.88\$
2	IP Enpoint for Confernce Phone	77.00\$	154.00\$
Handsets			
25	1608 IP Phone	173.25\$	4,331.25\$
6	1616 IP Phone	208.69\$	1,252.13\$
2	32 Button Module (1616)	115.76\$	231.53\$
2	1608 Wall Mounting Kit	14.60\$	29.20\$
1	Conference Room Telephone	697.40\$	679.40\$
Support			
1	24 x 7 NBD Parts	528.24\$	528.24\$
Labor			
1	Install and Integration		4,750.00\$
Total		17,579.01\$	

Attachment #4 – Code of Ethics

Attachment #5 – Town Clerk Annual Report to the Town Board

Attachment #6 – Town Justice’s Annual Reports

Attachment #7 – Proposed Chargebacks

TO: Supervisor Pam Helming
RE: A380 Chargeback Review
DATE: January 14, 2015
FROM: Mary C. Smith – Development Office

Supervisor Helming

A380 charges on MRB Group Invoice 18799 for review at the 1/20/15 meeting include the following:

Vision Kia	\$190.00
Wright	\$95.00
Withers	\$47.50
Youssef	\$47.50
Simco	\$47.50
Lakewood Meadows	\$1,861.20
Centerpointe Phase 3	\$315.00
Lyons National Bank	\$343.70
Cheshire Volunteer Fire Department	\$285.00
Hammocks at Canandaigua	\$190.00
Fox Ridge	\$142.50
Old Brookside	\$95.00
Vision Nissan	\$410.00
Schotland	\$95.00
Villas at Canandaigua	\$617.50
Genecco, Sarah	\$438.70
Tuttle, Charles	\$438.70
Lakeside Estates	\$657.50
Total A380 charges on MRB Invoice 18799	<u>\$6,317.30</u>

A380 charges on The Brocklebank Firm Invoice 15597 for review at the 1/20/15 meeting include the following:

Villas at Canandaigua	\$26.25
Centerpointe Phase 3	\$47.50
Total A380 charges on Invoice 15597	<u>\$73.75</u>
Total A380 charges	<u>\$6,391.05</u>

Attachment #8 – Purdy / Mobile Road

THE BROCKLEBANK FIRM

--Attorneys--

51 North Main Street
Canandaigua, NY 14424-1495

Telephone: (585)394-3758
Toll Free: (800)411-7660

Fax: (585)394-3585

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

January 5, 2015

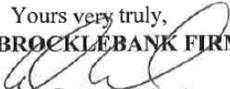
**Re: Purdy / Mobile Road Sewer Project
Hook-up fees**

To the Supervisor:

Kindly accept this letter to confirm that the Town may use surplus Project funds to reduce hook-up fees.

It is my understanding that the Project was completed, and/or is anticipated to be completed, under budget and under the maximum cost set forth in the sewer extension formation documents.

The hook-up fees appear to be legitimate soft-costs that may be capitalized in the debt service given the overriding public purpose of this Project to eliminate a public health hazard in a low-income area of the Town. The inability of a property owner to hook-up to the sewer system due to limited financial means would defeat the very purpose of this Project.

Yours very truly,
THE BROCKLEBANK FIRM

Derek G. Brocklebank
db@brocklebanklaw.com

DGB:Db

Attachment #9 – Monroe County Water Authority Agreement



December 22, 2014

Hon. Theodore Fafinski, Supervisor
Town of Farmington
1000 County Road #8,
Farmington, NY 14425

Hon. Pam Helming, Supervisor,
Town of Canandaigua
5440 Route 5 & 20 West
Canandaigua, NY 14424

Re: Emergency Water Supply - Letter Agreement

Dear Supervisors Fafinski and Helming,

Pursuant to our August 1, 2014 meeting with Ted Fafinski and the Dave DeGear, we would like to formalize our arrangement regarding emergency water supply between the Monroe County Water Authority (Authority), and the Towns of Farmington and Canandaigua, on behalf of the Canandaigua Farmington Consolidated Water District, (District). It is the intent of this Letter Agreement to memorialize the use of three connections as outlined below by either the Authority or the Towns during an Emergency.

Connections and Operation:

There are currently three connections between the District and the Authority. These connections are closed valves, but were utilized by the Towns of Victor and Farmington in the past. The existing connections are as follows (maps attached):

1. Brownsville Road
2. Route 96
3. Gypsum Mills

Brownsville Road connection - a closed valve connection and will be utilized for back-up in the event of a local main break that the shutdown can be minimized by back-feeding from either system.

Route 96 Connection - The District normally operates at a higher hydraulic grade than the Authority. In order for the District to be supplied water on an emergency basis from the Authority, the Authority will install an emergency pump connection at the boundary between the two systems. This connection will be on Route 96 at the Town of Farmington – Town of Victor town-line. The emergency connection will consist of two hydrants located within close proximity to one another with a closed valve between them. It is the intent to use one existing hydrant and install one hydrant and possibly one main line valve on the existing water main. This work will be designed, permitted, and constructed by the Authority at the Authority's expense and be coordinated with the Town of Farmington. The existing meter at this connection will not be used as the water would be flowing in the opposite direction of the existing meter.

Gypsum Mills Connection - is currently metered and includes a PSV. This connection is not currently in operation. The PSV and meter will be brought back into operation and any rehab work

*Hon. Theodore M. Fafinski and Hon. Pam Helming
Re: Emergency Water Supply
December 22, 2014*

that is necessary will be performed by the Authority. The set points on this PSV will be set such that it will only be activated in an Emergency. The meter will be read quarterly to account for any water used through this connection. The lock on the vault has been changed to allow the District and the Authority the ability to gain access to the vault to read the meter.

If an Emergency exists, either party may activate the Brownsville Road Connection or the Route 96 Connection, on notice to the appropriate emergency contacts previously provided. In the event that the Emergency usage impairs the function of the Emergency supplier, then the Emergency supplier may terminate the Emergency Supply.

The District reserves the right to install improvements at the boundary between each system and/or connection to improve Emergency water supply to the district. All such work will be designed, permitted, and constructed by the District at be the district's expense. Any such improvements will be coordinated with the Authority.

Mutual Rate:

The rate for the water through these emergency connections will be the average of the Town of Farmington's bulk supply rate and the Authority's wholesale water rate effective at the time of use (commodity only, daily meter or base charges will not be applicable).

Example for reference: the Authority's current (2015) wholesale rate is \$2.04 per 1,000 gallons and the Town of Farmington's bulk supply rate is currently \$2.22 per 1,000 gallons. Therefore the current rate for emergency supply through this agreement would be \$2.13 per 1,000 gallons for an emergency in 2015.

Term:

The term of this agreement shall be two (2) years from the last dated approval below. This agreement shall automatically renew for 19 additional two (2) year renewal terms (each a "New Renewal Term"). Either party may terminate this Agreement at any time on 60 day written notice to the other parties to this Agreement.

If you are in agreement with the plan set forth in this letter, please sign both copies of this letter and return them to the Authority. We look forward to working with the Towns, and appreciate the coordination efforts that have taken place thus far.

The undersigned acknowledge that this agreement shall not become effective until approved by the Ontario County Board of Supervisors.

Att.
/sms

Cc: Richard J. Metzger, P.E., MCWA
Stephen M. Savage, P.E., MCWA
Christian E. King, P.E., MCWA
Raymond W. Benshoff, MCWA
Kathleen A. Prestidge, MCWA
Dave DeGear, Town of Farmington

Attachment #10 – Integrated Systems Professional Services Agreement



Professional Services Agreement

The following is a listing of all Professional Services Agreements that Integrated Systems is offering for **Engineering Services and Software Development**. It includes Network and System troubleshooting, programming, end user technical support, cabling and travel. The hours may be used for any combination of services. The larger the time block purchased, the greater the savings per hour. Contract rates cover work performed by any Integrated Systems Engineer at one unit per hour, except for services requiring a Senior Engineer whose hours are billed at 1.3 units per hour; those services include: Server Implementations, Network Design and Engineering, and at client request.

Professional Service Agreement Terms:

Payment in full is due before any project/support is started.

Purchase of Professional Service Agreements are non refundable.

Clients with **PSA** receive priority telephone response time over non-PSA clients.
(average response time: less than 1 hour)

Clients with **PSA** receive priority on-site response time for troubleshooting & technical support over non-PSA clients.

Clients with **PSA** have the option to have updates delivered via modem; mail; or on-site delivery.

Travel time is billed as straight time

Weekend/Overtime hours will be billed at 2 X regular rate

Modem/Phone charges are the responsibility of the client and are always billable.

Engineer's time is billable when:

- Working on additions/updates to programs / integration/ research
- Travel time between office and customer's location
- Time involved in gathering information for projects

Statements of time spent on this contract are available at the Client's Request

LIMITATION OF WARRANTY LIABILITY: The obligation of Integrated Systems under the warranty is limited to the repair or replacement, at Integrated Systems option, of a non-conforming product, part or component thereof, except consumable accessories, within a reasonable time after notification. The clients remedies are limited to Integrated Systems obligations stated herein, subject to the "EXCLUSIVE REMEDY" set forth in the paragraph below. This warranty extends only to the client. **THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS.** Integrated Systems has not made and makes no guarantee or warranty, including implied warranty or merchantability or fitness, that the system, equipment, or services supplied will avert, avoid or prevent the loss of data or information or the consequences therefrom, which the system or service is designed to provide. It is mutually understood and agreed that in executing this Agreement, client is not relying on any advice or advertisement of Integrated Systems. Client agrees that any representation, promise, condition, inducement or warranty, express or implied, including those of merchantability and fitness, not included in writing in this Agreement shall not be binding upon any "party." The client assumes all risk for loss or damage to the client equipment and data files except as specified herein.

EXCLUSIVE REMEDY: Because of the nature of the services rendered and the system as a whole, it is impractical and extremely difficult to fix the actual damages, if any, which may result from failure on the part of Integrated Systems to perform its responsibilities under this contract. Client does not desire this contract to provide full liability for loss, damage or injury due directly or indirectly to occurrences, or consequences therefrom, which the service or system is designed to deter or avert. In the event Integrated Systems should be

found liable for loss, damage or injury due to a failure of the equipment or services provided under this Agreement or the equipment in any respect, its liability shall be limited to \$250.00, as the agreed upon liquidated damages and not as a penalty. Such liquidated damages is the exclusive remedy for any failure of services or equipment, and the provisions of this paragraph shall apply if loss, damage or injury, irrespective of cause or origin, results directly or indirectly to a person or property from the performance or nonperformance of any obligation of Integrated Systems from negligence, active or otherwise, of Integrated Systems, its agents or employees. It is intended and expressly agreed that the purpose of the preceding provisions are to set an upper limit to the amount recoverable by the client and to fix liability of Integrated Systems at a specific sum of \$250.00. If client desires additional liability coverage, it shall be his responsibility to secure it from an insurance carrier or other agency of his choice, at his own expense. The client shall bring no suit against Integrated Systems more than one (1) year after the accrual of the cause of action therefore.

The Client agrees that, during the term of this Agreement and for a period of twenty-four (24) months thereafter, it will not actively solicit an Integrated Systems employee as a candidate or possible candidate for any position with the client or potential client, without first obtaining the written permission of Integrated Systems. Due to the difficulty of assessing damages in the event of a breach of this provision, the parties agree that Client will pay Integrated Systems, upon Integrated Systems written notice to the Client, an amount equal to three times the annual wages of any Integrated Systems employee who is referred by Client in violation of this provision. The Client will also reimburse Integrated Systems for any attorney's fees incurred by Integrated Systems in collecting amounts owed under this provision.

Pursuant to NYS General Municipal Law §103(16) the Town of Canandaigua certifies that this contract was awarded in compliance with the competitive bidding requirements of the State of New York for a professional service and agrees that the terms and conditions of such contract are available for use by other government entities and authorized Purchasers provided that Purchaser enters into a separate independent contract with Contractor, and in said contract Purchaser accepts sole responsibility for any payment due the Contractor for services/material rendered to that Purchaser

Integrated Systems Contract Rate Schedule

Contract	Hours	Rate/Hour	Total Cost	Savings
None		\$ 155.00		None
A	10	\$ 95.00	\$ 950.00	\$ 600.00
B	25	\$ 90.00	\$ 2250.00	\$ 1625.00
C	50	\$ 85.00	\$ 4250.00	\$ 3500.00
D	100+	\$ 75.00	\$ 7500.00+	\$ 8000.00+

Contract Selected: D 148 Hours See Schedule A for detail

I have read the above terms and conditions of the time contracts. I understand and agree to the above conditions and terms of the contract:

Company: _____

Address: _____

Signature: _____

Date: _____ **PO#:** _____

Integrated Systems Co-signed: _____

Schedule A

Town of Canandaigua Support Services Protocol and Service Reimbursement Schedule:

(1) day (4) hours onsite (1) day per month and as requested support time

Requests for Service:

Requests for Service, other than scheduled onsite service can be made by calling our office at 924-8670.

Rates / Reports:

Integrated Systems will provide the Town of Canandaigua support and troubleshooting for the Town's technology needs from 8am -5pm Monday through Friday at our quoted contract rate. A detailed summary of each service call will be provided upon request.

Scheduled Support Provided Monthly:

Integrated Systems will provide the Town to Canandaigua through (1) day per month for a maximum of four hours to support the IT services. If additional support time is needed it will be billed to the Town's existing/valid Professional Service Agreement.

Scheduled Monthly Service:

Server Level: Monthly Onsite

- Examination and Evaluation of Server event logs and document and report variations from established baselines.
- Examination and Evaluation of RAID5 Storage Configuration, document and report variations from established baseline
- Implement Microsoft Windows Updates as they are made available from Microsoft
- Evaluate Disk Space, document and report variations from established baselines
- Verification of Backups, document and report variations from established baseline
- Evaluate Power Management Status for UPS equipment document and report variations from established baselines

User Level Support: Monthly Onsite

- Installation and Integration of workstations, laptops, printers and application software for users
- Support and troubleshooting for the Town users technology needs as they occur
- User level Support for the Town's Department Level Application Software

User Applications Support: Monthly Onsite

- PC level Support of Operating System issues with Windows XP and Windows 7, Windows 8
- PC level Support of Issues of Microsoft Office Issues
- PC level Support of Printer related issues
- And other support service as needed on an À la carte basis

The payment in full is due before any services or support is started. Additional onsite support time will be provided as requested, at the same rate for work during regular business hours and work performed after 5pm, the rate is 1.5 per hour.

Contracted Services and Costs:

Scheduled Service:

4 hours Onsite / Once per month @ PSA Contract Rate \$75.00/Hr.** = 48 hours x \$75.00/Hrs. = \$3600.00 due January 1, 2015** Rate if purchased with 100 PSA

Professional Services Agreement:

100 Hours Professional Services Agreement = 100 hours @ PSA Contract Rate \$75.00/Hrs. = \$7500.00 due January 1, 2015

Total Due \$11,100.00

Additional Onsite Technical Support Time is available for the Town of Canandaigua to purchase at the regular billing rates outlined in this contract

Note: The Town is responsible to maintain vendor support agreements for the software programs that sustain the daily operation and automation needs of each department.

Payment:

Scheduled Regular Onsite Service and Technical Support payment is due upon receipt. Billed January 1, 2015

Attachment #11 – Chris Nadler Professional Services Agreement

LAW OFFICES OF
CHRISTIAN M. NADLER
ATTORNEYS AND COUNSELORS AT LAW
144 VILLAGE LANDING, # 227
FAIRPORT, NEW YORK 14450
PHONE: 585-315-4767
FACSIMILE: 585-486-1570
CNADLER@CHRISNADLERLAW.COM

December 17, 2014

Supervisor Pam Helming
Town of Canandaigua
5440 Routes 5 & 20
Canandaigua, NY 14424

RE: Retainer Agreements for Planning Board and Zoning Board

Dear Supervisor Helming,

I respectfully request that the Town Board re-appoint me to the position of Attorney for the Zoning Board of Appeals, and that the Town Board approve my appointment as Planning Board Attorney if I am re-appointed at the Planning Board's 2015 Organizational Meeting.

I have attached Retainer Agreements for each of these positions. As you can see there is again no increase in my hourly rate. Please sign each Retainer Agreement and return to me at your earliest convenience.

If you have any questions, or if you need anything further please do not hesitate to contact me.

Sincerely,

LAW OFFICES OF
CHRISTIAN M. NADLER



Christian M. Nadler, Esq.

CC: Tom Schwartz
Doug Finch

CMN/sec

Encls.

RETAINER AGREEMENT

1. **IDENTIFICATION OF PARTIES.** This agreement, effective on January 1, 2015, is made between LAW OFFICES OF CHRISTIAN M. NADLER, hereafter referred to as "Law Firm," and the TOWN OF CANANDAIGUA, hereafter referred to as the "Town."
2. **LEGAL SERVICES TO BE PROVIDED.** The legal services to be provided by Law Firm are as follows:
 - a. **Zoning Board Services.** Law Firm shall serve as Attorney for the Zoning Board of Appeals of the Town of Canandaigua. Law Firm will provide legal advice and counsel to the Zoning Board of Appeals, and shall represent the Zoning Board of Appeals in any litigation to which it is a party.
 - b. **Development Office Services.** Law Firm shall serve as Attorney for the Development Office of the Town of Canandaigua. Law Firm will provide legal advice and counsel to the Development Office staff, and shall prosecute Zoning Violations as directed by the Code Enforcement Officer or the Zoning Officer. Law Firm will draft changes to Chapter 174 and Chapter 220 of the Town of Canandaigua Code as directed by the Town Board.
3. **FEES, COSTS, & EXPENSES.**
 - a. **Hourly Rate.** Law Firm will bill the Town for legal services at a rate of \$130.00 per hour except for legal services rendered in connection with litigation, which will be billed at a rate of \$150.00 per hour.
 - b. **Costs & Expenses.** The Town agrees to pay all costs and expenses in connection with Law Firm's representation under this Agreement. Costs include, but are not limited to, court filing fees, deposition costs, expert fees and expenses, investigation costs, long-distance telephone charges, messenger service fees, photocopying expenses, printing fees, and process server fees.
4. **TERM.** This Agreement shall remain in effect for a term of 12 consecutive months commencing on January 1, 2015 and ending on January 1, 2016.
5. **TERMINATION.** The Town or Law Firm may terminate this Agreement at any time on 60 days written notice, in which case Law Firm's services under this Agreement will cease effective as of the 60th day after receipt of such notice. Any such notice shall be delivered by certified mail at the addresses listed below.

6. **NO GUARANTEE.** Client acknowledges that Law Firm has not promised any specific result in this matter, and understands that there are no guarantees of a successful disposition of Client's case(s).
7. **ARBITRATION.** Any dispute over legal fees shall be resolved with arbitration pursuant to Part 137 of the Rules of the Chief Administrator of Courts.

The foregoing is agreed to by:

TOWN OF CANANDAIGUA

LAW OFFICES OF
CHRISTIAN M. NADLER

Supervisor Pam Helming
Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, New York 14424

Christian M. Nadler, Esq.
144 Village Landing, #227
Fairport, New York 14450
Phone # 585-315-4767

Date: __/__/__

Date: __/__/__

RETAINER AGREEMENT

1. **IDENTIFICATION OF PARTIES.** This agreement, effective on January 1, 2015, is made between LAW OFFICES OF CHRISTIAN M. NADLER, hereafter referred to as "Law Firm," and the TOWN OF CANANDAIGUA, hereafter referred to as the "Town."
2. **LEGAL SERVICES TO BE PROVIDED.** The legal services to be provided by Law Firm are as follows:
 - a. **Planning Board Services.** Law Firm shall serve as Planning Board Attorney for the Town of Canandaigua if Law Firm is appointed as such by the Planning Board pursuant to New York State Town Law § 271(2) and Canandaigua Town Code § 111-4. Law Firm will provide legal advice and counsel to the Planning Board, and shall represent the Planning Board in any litigation to which it is a party.
 - b. **Development Office Services.** Law Firm shall serve as Attorney for the Development Office of the Town of Canandaigua. Law Firm will provide legal advice and counsel to the Development Office staff, and shall prosecute Zoning Violations as directed by the Code Enforcement Officer or the Zoning Officer. Law Firm will draft changes to Chapter 174 and Chapter 220 of the Town of Canandaigua Code as directed by the Town Board.
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6. **NO GUARANTEE**. Client acknowledges that Law Firm has not promised any specific result in this matter, and understands that there are no guarantees of a successful disposition of Client's case(s).
7. **ARBITRATION**. Any dispute over legal fees shall be resolved with arbitration pursuant to Part 137 of the Rules of the Chief Administrator of Courts.

The foregoing is agreed to by:

TOWN OF CANANDAIGUA

LAW OFFICES OF
CHRISTIAN M. NADLER

Supervisor Pam Helming
Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, New York 14424

Christian M. Nadler, Esq.
144 Village Landing, #227
Fairport, New York 14450
Phone # 585-315-4767

Date: __/__/__

Date: __/__/__

Attachment #12 – Proposed Code Changes

Section 1. Legislative Intent. The intent of this Local Law is to update, clarify, amend, and revise the following chapters of the Town of Canandaigua Town Code: General Provisions (definitions), Zoning, Animals, Uniform Dock & Moorings, Subdivision, and Flood damage prevention chapters of the Town of Canandaigua Town Code.

§2. Town of Canandaigua Town Code Chapter 220, Article VI is hereby amended to add the following section:

§ 220-62a. Special Use Permit for Commercial Speech Signs

- A. The Town Planning Board may approve a Special Use Permit for a Commercial Speech Sign in the CC Community Commercial District provided that the general conditions set forth in §220-35 of this article and the following standards are met:**
- (1) Prior to granting Special Use Permit Approval, the Town Planning Board must make a finding that the proposed sign is in compliance with the standards set forth in § 220-83.**
 - (2) The specific location of the proposed sign must be shown on a Site Plan approved by the Planning Board.**
 - (3) Prior to granting Special Use Permit Approval, the Planning Board must make a finding that the proposed signage will not compromise the aesthetic appearance of the surrounding neighborhood.**
 - (4) Prior to granting Special Use Permit Approval, the Town Planning Board must make a finding that the proposed signage will not significantly increase the magnitude of hazards to motorists and pedestrians caused by sign distractions.**
- B. Special Use Permit Not Required. Pursuant to § 220-83, a Special Use Permit is not required for commercial speech signs in the CC Community Commercial District, but can be obtained for the property owner’s convenience.**

§3. Town of Canandaigua Town Code § 220-23 is hereby amended to read in its entirety as follows

§ 220-23. CC Community Commercial District.

A. Purpose. The purpose of the CC Community Commercial District uses is to provide a broader range of general and comparison commercial goods, services and facilities necessary to serve the needs of the population of major portions of the Town and adjacent areas.

B. Permitted principal uses.

- (1) Any use permitted in a Neighborhood Commercial (NC) District.
- (2) Shopping centers, malls, plazas or other grouping of commercial uses and buildings.
- (3) Theaters, concert halls, stage productions or similar places of assembly when conducted within enclosed buildings.
- (4) Newspaper printing, including incidental job printing.
- (5) The sale, lease or rental of vehicles, provided that:
 - (a) Such sales shall be conducted in a fully enclosed building located on the same lot and having a building area of not less than 1,000 square feet devoted to the sales and services of vehicles.
 - (b) The sale of vehicles may be carried on in an unenclosed area, provided that:

[1] Such area is on the same or an adjacent lot to such building. If the enclosed area is on an adjacent lot, the lot shall be not more than 200 feet from the lot with the building and shall further be in the same ownership as said building, be in a Community Commercial (CC) District, and be used for no other purpose.

[2] Such unenclosed area shall be paved, shall be suitably drained, and shall be maintained in a neat and orderly manner.

[3] All exterior illumination shall be approved by the Planning Board and shall be shielded from the view of all surrounding properties and streets in compliance with Town Code § 220-77.

[4] Suitable landscaping and/or fencing of such unenclosed area shall be required.

[5] As used in this section, the sale of new vehicles shall be deemed to mean only the sale of such vehicles under a franchise granted to the person, firm, or corporation conducting such business by a vehicle manufacturer. Used vehicles shall be sold only in connection with the sale of new automobiles.

[6] No establishment for the sale of new and used vehicles shall be opened, conducted, or maintained except as provided above. Site plans for any changes required to bring about such conformance shall be submitted to and approved by the Planning Board before any such change shall be made. The Planning Board may approve, modify, or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this chapter shall be observed.

(6) Commercial uses such as gift shops, tourist shops, clothing stores, furniture stores, craft shops, sporting goods, shoe stores, grocery stores and liquor stores.

(7) Laundromats and dry cleaners.

(8) Building supply and farm equipment stores and truck garden nurseries.

(9) Electrical, heating, plumbing or woodworking shops.

(10) Assembling, converting, altering, finishing, cleaning, or any other processing of products, provided that:

(a) Goods so produced or processed are to be sold at retail, exclusively on the premises.

(b) Space used for such purposes shall not occupy more than 20% of the area devoted to retail sales, shall be clearly incidental to such retail use and shall be fully concealed from any street.

(c) Not more than two persons shall be engaged in such production/processing at any one time.

(11) Produce markets.

(12) Funeral parlors.

(13) Bowling alley, billiard hall or indoor skating rink, or similar forms of indoor commercial recreation.

(14) Upon the approval of the Town Planning Board, a principal building may contain a combination of residential and business uses, provided that such residential uses are accessory to the business conducted and located elsewhere than on the street frontage of the ground floor.

(15) Restaurants.

(16) Financial services.

(17) Offices of business, professional or financial organizations.

(18) Essential services and public utilities substations, excluding power plants, maintenance buildings and storage yards.

(19) Car wash establishments.

(20) Rental of trucks, trailers, etc., associated with gasoline services stations or other uses.

(21) Motel or hotel.

(22) Farm and craft markets.

(23) Antique shops.

C. Permitted accessory uses and structures.

(1) Any accessory use permitted in the Neighborhood Commercial District.

(2) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.

(3) Off-street parking, loading and unloading facilities, signs, fences and landscaping, subject to the provisions of this chapter.

D. Dimensional requirements.

(1) The dimensional requirements for this district are specified in Schedule I,^[1] which is a part of this chapter.

(2) Driveway spacing and corner clearance requirements are specified in Schedule I-A,^[2] which is a part of this chapter.

E. Special permitted uses. The following uses may be permitted, consistent with the provisions of Article VI, provided that a special use permit is approved by the Town Planning Board:

(1) Motor vehicle service stations and motor vehicle repair stations.

(2) Fast-food service restaurant.

(3) Research, engineering, and light manufacturing, as follows:

(a) Scientific or engineering research and/or experimental development of materials, methods or products;

(b) Engineering design of products and laboratory research;

(c) Manufacture of:

[1] Electric, electronic or optical instruments or devices;

[2] Scientific, laboratory and process control instruments and devices; and

[3] Computers and data processing equipment.

(d) Light manufacturing, assembling, fabrication, coating, painting, washing or packaging of products produced from previously prepared materials such as textiles, plastics, paper, leather, metals or stones, glass, ceramics, base metal bar, sheet, and special shapes; and

(e) Testing and repairing of the products or type of products which may be manufactured in the district.

(4) Personal wireless communications facilities.

(5) Public uses.

(6) Temporary uses.

(7) Commercial speech signs.

§4. Town of Canandaigua Town Code § 220-73 is hereby amended to read in its entirety as follows:

§ 220-73. Off-street parking regulations.

Purpose: In all districts there shall be provided, at the time any building or structure is erected, enlarged, increased in capacity or changed in use, improved and usable off-street parking spaces for motor vehicles in accordance with the requirements of this article, Zoning Schedule II, or the New York State Uniform Fire Prevention and Building Code. In the instance where there may be a conflict between the requirements of these three sources, the stricter regulations shall govern. In such cases, off-street parking facilities shall be provided as hereinafter specified for the building as enlarged, or to accommodate the needs of the new use.

A. Design requirements.

(1) Off-street parking space shall be provided as further specified in this chapter and shall be furnished with necessary passageways and driveways. For the purposes of this chapter, a parking space shall not be less than 10 feet in width and 20 feet in depth, exclusive of accessways and driveways.

(2) Off-street parking areas for nonresidential uses shall provide a minimum additional area of 100 square feet of area per off-street parking space to provide sufficient area for access drives and aisles.

(3) Off-street parking areas with a capacity for more than 20 vehicles shall delineate fire lanes and post "no parking" markers.

(4) Any off-street parking area with at least 20 off-street parking spaces shall designate a minimum of 5% of those spaces, up to a maximum of 10 spaces, as reserved only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall be at least 14 feet in width and 20 feet in depth.

(5) All off-street parking space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner. It shall not be separated by a public highway or right-of-way.

(6) All parking areas, passageways and driveways (except where provided in connection with one- and two-family dwellings, or farm residences and buildings) shall be adequately drained and will have a durable surface, subject to approval of the Town Planning Board.

(7) Each off-street parking space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any motor vehicle may be parked and unparked without moving or damaging another.

(8) The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots may be approved by the Planning Board, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.

(9) Parking areas may be located in any yard space for nonresidential uses but shall not be located:

(a) So as to impinge on the minimum required buffer width, as measured from the property lot line, as established in § 220-76D; or

(b) For properties of 60,000 square feet or less in size, any closer than 10 feet to any side or rear property line unless specifically approved by the Planning Board as part of a multiple-parcel shared parking plan; or

(c) For properties greater than 60,000 square feet in size, any closer than 20 feet to any side or rear property line unless specifically approved by the Planning Board as part of a multiple-parcel shared parking plan.

(10) No driveway to an off-street parking area shall be located closer than 50 feet to the intersection of any two streets or within 10 feet of any side lot line identified in § 220-9V(3) or (4) of this chapter, provided further that sufficient distance will always remain for all required radii for said driveway, that said driveway will not be determined by the Planning Board to adversely affect the minimum sight distance for motorists, as recommended in various Town, county and state highway design and traffic safety manuals, or prevent the stacking of vehicles along the highway where there is a traffic control device operating. No driveway to an off-street parking area serving a lot identified in § 220-9V(4) of this chapter shall be located within 20 feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway, that said driveway will not be determined by the Planning Board to adversely affect the minimum sight distance for motorists, as recommended in various Town, county and state highway design and traffic safety manuals, or prevent the stacking of vehicles along the highway where there is a traffic-control device operating. Where a traffic study identifies a different distance to the intersection of any two streets would provide improved highway safety and efficiency, the Planning Board may then require said cited distance as a condition of subdivision or site plan approval. The distance from the driveway to the intersection shall be measured by extending the curb or pavement line of the intersecting street until it intersects the curb or pavement line, extending, if necessary, of the driveway in question. In addition, the minimum separation required by § 220-9V(2), (3), or (4) shall be maintained between two driveways located on any one frontage.

B. Location of off-street parking facilities. Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking facility to the nearest public entrance of the building that such facility is required to serve.

(1) For one- and two-family dwellings and for all types of residential structures on the same lot with the building they are required to serve.

(2) For multiple-family dwellings, not more than 200 feet from the building they are required to serve.

(3) For other uses, not more than 360 feet from the building they are required to serve.

C. Screening and landscaping.

(1) Off-street parking areas for more than five vehicles shall be effectively screened on the rear and side yards by a fence of acceptable design, unpierced masonry wall, landscaped berm or compact evergreen hedge. Such fence shall be erected and maintained in accordance with § 220-9K of these regulations. Such wall or hedge shall not be less than six feet in height and shall be maintained in good condition.

(2)When a parking area for five or more vehicles is within or abuts a residential district, a planted buffer area shall be provided in addition to the fence or wall specified in Subsection C(1) above. Landscaping utilized to provide this buffer shall not be less than four feet in height at the time of planting and spaced not more than three feet apart. The planted buffer area shall not be less than 10 feet in depth.

D. Lighting.

(1)All off-street parking areas and appurtenant passageways and driveways (excluding areas serving one- and two-family dwellings and farm dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.

(2)Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining property.

E. Units of measurement.

(1)In churches and other places of assembly in which patrons or spectators occupy benches, bleachers, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities.

(2)When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one parking space.

F. Mixed occupancies and uses not specified. In any case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the Town Planning Board. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint use.

G.Joint use. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

H.Required off-street parking space. Required off-street parking space for specific uses as regulated in this chapter is contained in Schedule II, which is part of this chapter.

I. Authority for Planning Board to Modify Required Number of Parking Spaces.

- (1) **Where the Planning Board is reviewing an application for Site Plan Approval, the Planning Board is hereby authorized to modify the required number of parking spaces contained in Schedule II, provided that the Planning Board does not reduce said number of required parking spaces by more than 50%.**
- (2) **Such modification may take place only after the Planning Board finds that either:**
 - (a) **Applicant has demonstrated that the specific use routinely requires fewer parking spaces than required by Code; or**
 - (b) **Applicant has demonstrated that adequate public off-street parking facilities are available within 400 feet of the lot containing the subject use; or**
 - (c) **Applicant has provided evidence of satisfactory off-site parking arrangements.**
- (3) **Where the Planning Board modifies the required number of parking spaces pursuant to this section, the Planning Board shall impose such conditions as it deems necessary.**

§5. Town of Canandaigua Town Code § 220-33 is hereby amended to read in its entirety as follows

§ 220-33. Mixed Use Overlay Districts.

A. Purpose. It is the purpose of the MUO Mixed Use Overlay District to provide supplemental regulations to the underlying zoning districts that are located within the three growth nodes identified in the adopted Town of Canandaigua Comprehensive Plan. The MUO Mixed Use Overlay District process enables a narrowly defined mix of land use to occur on sites located within one of the three growth nodes once the land has been rezoned and final site plan approval has been obtained. These three growth nodes are identified on the Official Zoning Map and shall be known as the MUO Mixed Use Overlay District.

B. Intent. It is the intent of the MUO Mixed Use Overlay District to enable a mix of land use to occur within the three growth areas once final site plan approval has been obtained from the Town Planning Board. Final site plan approval within these three growth node areas shall be subject to the following design standards:

(1)A site plan that will continue to attract appropriate development in order to expand upon the economic and fiscal base of the Town in a manner that maintains the unique character of the respective growth node and contributes to maintaining a high quality of life within the community;

(2)A site plan that encourages architectural and site design that is compatible with the site's surroundings;

(3)A site plan that encourages buildings that provide an appropriate transition between adjacent sites within the growth nodes;

(4)A site plan that encourages buildings that are protective of open space resources important to the Town;

(5)A site plan that establishes a clear and consistent character for new structures with existing structures and sites;

(6)A site plan that reduces delays and avoids confusion that developers, landowners, or business operators may encounter during the construction phase of the proposed project; and

(7)A site plan that the Planning Board finds will minimize land use conflicts between adjacent sites and within the growth node area to the greatest extent practicable.

C. Establishment of the Mixed Use Overlay (MUO) District.

(1) The Mixed Use Overlay (MUO) District growth areas referenced above herein shall be delineated on the Town's Official Zoning Map. This delineation shall serve only to establish the eligibility of a parcel of land located therein for consideration of a mixed use designation as MUO.

(2)Process. An owner of a parcel of land located within a growth node delineated on the Official Zoning Map of the Town of Canandaigua as a Mixed Use Overlay District shall submit a rezoning petition to the Town Board requesting the adoption of a local law to rezone the parcel of land to a Mixed Use District consistent with the growth node. If the Town Board decides to consider the petition, then the Town Board may refer the petition to the Planning Board for an advisory report which report shall be returned by the Planning Board to the Town Board within sixty (60) days. If the Town Board decides to further consider the rezoning petition, then the Town Board may direct the owner to prepare and submit an application for Preliminary Site Plan approval to the Planning Board. The owner shall then have one-hundred and eighty (180) days, which period may be extended from time to time by the Town Board, to obtain Preliminary Site Plan approval from the Planning Board conditioned upon the proposed rezoning to a Mixed Use District. The Town Board, after receipt of the Preliminary Site Plan approval, if required, may then consider the rezoning petition for final determination.

D. Interpretation of Mixed Use Overlay (MUO) District boundaries. The Town Board shall be responsible for interpreting the MUO District boundaries delineated on the Official Town Zoning Map. Prior to

making such an interpretation, the Town Board shall receive a recommendation from the Town Zoning Officer as to whether the proposed development lies within the boundaries of the MUO District boundaries. Anyone aggrieved by this interpretation may appeal to the Town Zoning Board of Appeals.

E. Mixed Use Overlay (MUO) District requirements.

(1) Dimensional requirements. The dimensional requirements of the respective underlying zoning district shall be met as a condition of final site plan approval except when a mixed use involves a use allowed or specially permitted in one of the other underlying zoning districts located within a mapped MUO District. In this instance, the dimensional requirements shall be those for the more intense district.

(2) Single use permitted. Within the Mixed Use Overlay District, only one use shall be permitted per parcel of land.

(3) Additional mixed use permitted. Where a parcel of zoned MUO District land exceeds the minimum dimensional requirements for a particular use, additional mixed uses may be permitted on the remaining portion of land only when additional lots have been created, the new lots rezoned to the MUO District and final site plan approval granted. There shall be no piecemeal or segmented development allowed within the MUO District.

(4) Open space. Each MUO District site shall maintain a minimum of 40% open space. Open space as defined herein does not include constrained lands (e.g., floodplains, freshwater wetlands, slopes of 15% or greater, ridgelines, shorelines, or a maximum of five acres of woodland per site). Open space also does not include driveways, parking spaces, aisles, dumpster enclosures, drainage facilities, or an area to be used for outdoor storage of materials or equipment.

(5) Site plan approval. Each MUO District site shall be subject to site plan approval by the Town Planning Board in accordance with the provisions of Article VII.

(6) Supplementary regulations. Each MUO District site shall be subject to compliance with the supplemental regulations contained in Article VIII.

F. Mixed Use Overlay District Regulations.

(1) Permitted uses. The following mix of land use is permitted on a legal lot located within the MUO District:

(a) One single-family dwelling.

(b) Multiple-family dwellings, including apartment complexes, where public sewer and water service exist.

(c) Permitted and special permitted Community Commercial, Neighborhood Commercial, Industrial and Limited Industrial District uses.

(d) Outdoor recreational facilities and amusement businesses.

(e) General or specialized farming operations, buildings and structures.

(f) The office of a physician, veterinarian, dentist, musician, teacher, lawyer or a member of some other recognized profession, or the studio of an artist, or the office of a resident agent such as real estate or insurance agent.

(g) Mini-warehouse storage facilities.

(2) Dimensional requirements.

(a)Functional stories. The maximum height of a mixed use structure shall not exceed 35 feet above existing grade.

(b)Maximum building height. The maximum height for commercial and industrial types of land use is limited to 60 feet above existing grade.

(c)Maximum gross square footage. The maximum gross square footage per building is 40,000 square feet.

(d)Maximum building footprint. The maximum square footage for a building footprint shall be 20,000 square feet.

I. 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.

§6: Town of Canandaigua Town Code § 220-94 is hereby amended to read in its entirety as follows:

§ 220-94. Violation of Zoning Board of Appeals conditions or restrictions.

Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance, or a modification of regulations, shall constitute a violation. Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies against the property owner or other offending parties.

§7. Town of Canandaigua Town Code § 220-98 is hereby amended as follows

§ 220-98. Violation of Planning Board conditions or restrictions.

Failure to comply with any condition or restriction imposed by the Planning Board in granting any Site Plan Approval, Special Use Permit, or Subdivision Approval shall constitute a violation. Such violation may constitute the basis for revocation of the approval or permit, or for imposing penalties and other applicable remedies against the property owner or other offending parties.

§8. Amending Town Code § 220-92

- (a) Legislative Intent. It is the intent of the Town of Canandaigua Town Board to authorize an alternate member of the Zoning Board of Appeals to serve when there is a conflict of interest and when a member of the Zoning Board of Appeals is absent. It is further the intent of the Town of Canandaigua Town Board to supersede the provisions of New**

York State Town Law § 267(11) to the extent that § 267(11) only authorizes service of an alternate in the event of a conflict of interest.

(b) Authority. This section of this Local Law is adopted pursuant to provisions of New York State Municipal Home Rule Law § 10.

(c) Town of Canandaigua Town Code § 220-92 is hereby amended to read in its entirety as follows:

§ 220-92. Creation, appointment and organization of Zoning Board of Appeals.

A. The Town Board does hereby establish a Zoning Board of Appeals.

(1) The number of members of the Zoning Board of Appeals shall be five members.

(2) Each member's term of office shall be that specified elsewhere in New York State Town Law and may be amended from time to time as further specified in Town Law.

(3) There shall also be one alternate member, to be appointed by resolution of the Town Board for a term of five years.

(4) The Zoning Board of Appeals Chairperson shall designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board, or when a member is absent from the meeting at which the Zoning Board of Appeals votes on an application. Prior to designating an alternate member to substitute during a member's absence, the Zoning Board of Appeals Chairperson must make a finding on the record that: (a) the member was notified of the scheduled meeting of the Zoning Board of Appeals; (b) the member was aware that the Zoning Board of Appeals would be voting on the particular application; and (c) the alternate member was present for all relevant public hearings held for the application.

(5) Members and alternate members shall maintain a minimum number of hours of training annually as set forth by resolution of the Town Board.

(6) Members and alternate members shall receive training from sources as set forth by resolution of the Town Board.

B. The Town Board shall, at its organizational meeting each year, appoint a Chairperson to the Zoning Board of Appeals. The term of office shall be one year.

[Amended 2-13-2012 by L.L. No. 1-2012]

C. The Zoning Board of Appeals shall, by resolution, establish and maintain such rules and regulations as are required by law and the provisions for the transaction of their business. A copy of said resolution shall be filed with the Town Clerk.

D. Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application for appeals under the provisions of this chapter, takes action to deny the application, said Board shall refuse to hold further hearings on the same or substantially similar application for appeal by the applicant, their successors or assigns, for a period of one year, except and unless the Board shall find and determine from the information supplied in the request for a rehearing that changed conditions have occurred relating to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing may be granted only upon a unanimous vote of all members of the Board then present.

§9. Amending Town Code § 220-95

(a) **Legislative Intent.** It is the intent of the Town of Canandaigua Town Board to authorize an alternate member of the Zoning Board of Appeals to serve when there is a conflict of interest and when a member of the Zoning Board of Appeals is absent. It is further the

intent of the Town of Canandaigua Town Board to supersede the provisions of New York State Town Law § 271(15) to the extent that § 271(15) only authorizes service of an alternate in the event of a conflict of interest.

(b) Authority. This section of this Local Law is adopted pursuant to provisions of New York State Municipal Home Rule Law § 10.

Town of Canandaigua Town Code § 220-95 is hereby amended to read in its entirety as follows:

§ 220-95. Creation, appointment and organization of Planning Board.

A.The Town Board does hereby establish a Planning Board.

(1) The Town Board has adopted this chapter under the authority of § 271 of New York Town Law and § 10(1)(ii)(a)(1) of the New York Municipal Home Rule Law.

(2) The number of members of the Planning Board shall be decreased from seven to five members. The decrease in membership shall take effect on January 1, 1999.

(3) Members now in office shall continue to serve until expiration of their respective original terms. All new appointees and reappointments shall be appointed for a term of five years as provided in Town Law, § 271(4), except as provided for in Town Law, § 271(5).

(4) Any member's term of office that commences and terminates at a time other than the commencement and termination date of the terms of office for the majority of members shall be subject to a restricted term of office at the next date of appointment in order to achieve a uniform commencement and termination date of office for all members.

(5) There shall also be one alternate member, to be appointed by resolution of the Town Board for a term of five years.

(6) The Planning Board Chairperson shall designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board, or when a member is absent from the meeting at which the Planning Board votes on an application. Prior to designating an alternate member to substitute during a member's absence, the Planning Board Chairperson must make a finding on the record that: (a) the member was of the scheduled meeting of the Planning Board; (b) the member was aware that the Planning Board would be voting on the particular application; and (c) the alternate member was present for, or has familiarized himself with, all relevant public hearings held for the application.

(7) Members and alternate members shall maintain a minimum number of hours of training annually as set forth by resolution of the Town Board.

(8) Members and alternate members shall receive training from sources as set forth by resolution of the Town Board.

B.The Town Board shall, at its organizational meeting each year, appoint a Chairperson to the Planning Board. The term of office shall be one year.

[Amended 2-13-2012 by L.L. No. 1-2012]

C.The Planning Board shall, by resolution, establish and maintain such rules and regulations as are required by law and the provisions for the transaction of their business. A copy of said resolution shall be filed with the Town Clerk.

§10. Town of Canandaigua Town Code § 220-97 is hereby amended to read in its entirety as follows:

§ 220-97. Planning Board office.

The Town's Development Office shall be the office of the Planning Board. The Town Clerk shall maintain the records for the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed with the Town Clerk as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official action.

§11. Town of Canandaigua Town Code § 115-16 is hereby amended as follows

§ 115-16. Residential structures.

A. Elevation. The following standards, in addition to the standards in § 115-14, Subsection A, Subdivision proposals, and Subsection B, Encroachments, and § 115-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least two (2) feet above the base flood level.

(2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated at least two (2) feet above the adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 115-6 (at least two feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§12. Town of Canandaigua Town Code § 174-16 is hereby amended to read in its entirety as follows:

§ 174-16. Conservation subdivisions.

A. Purpose. Pursuant to § 278 (cluster subdivisions) of New York Town Law, the purpose of these regulations is to achieve a balance between well-designed development, meaningful open space conservation and natural resource protection in the Town of Canandaigua by requiring conservation subdivisions instead of conventional subdivisions. Conservation subdivision (clustering) is intended to encourage development in the most appropriate locations on a subdivided parcel, to limit the impact of development on sensitive and/or significant environmental, agricultural, historical and archaeological resources, and to encourage development that enhances the Town's rural character, pattern and scale of settlement. The process for conservation subdivision of land shall be as follows:

(1) Step 1: Determine applicability or exemption.

(2) Step 2: preapplication sketch plan discussion (voluntary).

(3) Step 3: Identify constrained (undevelopable) land.

(4)Step 4: Calculate maximum permissible number of lots.

(5)Step 5: Perform conservation analysis.

(6)Step 6: preliminary plat review.

(7)Step 7: final plat review.

B. Applicability.

(1)These regulations shall apply to all subdivisions of property in all zoning districts unless:

(a)The proposed subdivision results in a total of four or fewer lots created from one parent parcel; and

(b)The road frontage of the parent parcel will not be reduced by more than 50% ; and

(c)No new public street or private roads will be created; and

(d)No more than 10% of the parent parcel contains priority natural resources as identified in the Town's Natural Resources Inventory.

(2)Subdivision proposals that do not meet all four of the above criteria shall be subject to preliminary and final subdivision review, as described in this chapter, and the conservation subdivision process described herein.

(3)Subdivision proposals that meet all four of the above criteria may, at the discretion of the applicant, utilize the conventional subdivision process described in this chapter.

C. Standards for conservation subdivisions.

(1)Density calculation.

(a)The maximum number of residential dwellings allowed on a site shall be known as the base density. Appropriate lot sizes will be determined by the Planning Board after careful consideration of all site characteristics and development requirements.

[1]Constrained land includes:

[a]New York State or federally regulated wetlands.

[b]Watercourses as depicted in the Natural Resources Inventory.

[c]One-hundred-year floodplains.

[d]Slopes over 15%.

[e]Land which contains one or more acres of woodlands, up to a maximum of five acres in any one area of the site.

[f] Land which is occupied by existing public utility structures or improvements.

[g]Land encumbered by existing easements or in other ways made unavailable for development.

[h]Land which is within an existing drainage control area or right-of-way.

[i] Land which is otherwise found by the Planning Board to be unsuitable for development.

[2]Unconstrained acreage shall be determined by subtracting the acreage of constrained land from the total (gross) acreage.

[3]Base density shall be determined by dividing the unconstrained acreage by the allowable number of acres per unit required within the zoning district. All fractional units shall be rounded to the nearest whole unit.

(b)Pursuant to § 261-b of New York Town Law, the base density, as determined by Subsection C(1)(a)above, may be increased by up to 15% by the Town Board within areas served by public water and sewer, if permanent public access will be granted to the protected open space land and any associated improvements.

(c)The maximum base density determined under this section may be further reduced by the Planning Board as a result of the conservation analysis required in Subsection C(2), Conservation analysis, below.

(d)The density permitted by this section shall not be further reduced as a result of the reservation of parkland during the subdivision process.

(2)Conservation analysis.

(a)As part of its preliminary plat submission [See Subsection D(2), Permanent preservation by conservation easement, below.], an applicant shall prepare a conservation analysis, consisting of inventory maps, description of the land and an analysis of the conservation value of various site features. The conservation analysis shall show lands with conservation value, including but not limited to:

[1]Constrained land as defined in Subsection C(1)(a)[1] above;

[2]Open space and recreational resources described in the Town's Farmland and Open Space Conservation Plan and Lands of Conservation Interest Map;

[3]Buffer areas necessary for screening new development from adjoining parcels;

[4]Land exhibiting recreational, historic, ecological, water resource, scenic or other natural resource value, as shown within the Town's Natural Resources Inventory; and

[5]In districts where agriculture is a permitted use, the agricultural value of land as indicated by the presence of soils classified by the U.S. Department of Agriculture as prime, prime if drained, and soils of statewide importance.

(b)The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial preliminary plat review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.

(c)The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved preliminary plat, which shall show land to be permanently preserved by a conservation easement. The preliminary plat shall also show preferred locations for intensive development as well as acceptable locations for less dense development.

(d)The determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board. Whenever the Planning Board approves a preliminary plat with protected open space, it shall make written findings identifying the specific conservation values protected and the

conservation findings supporting such protection. An application that does not include a complete conservation analysis sufficient for the Planning Board to make its conservation findings shall be considered incomplete.

(e)The preliminary plat shall show the following as land to be preserved by conservation easement:

[1]Constrained land identified by the analysis described in Subsection C(1) above; and

[2]Within residential districts, at least 40% of the land not preserved in Subsection C(2)(e)[1] above.

(f) If, based upon the conservation analysis, the Planning Board determines in its conservation findings that there is no reasonable basis for requiring a conservation subdivision, the Board may approve a conventional subdivision plat. In order for the Planning Board to make such a determination, the Planning Board must find at least one of the following:

[1]The land contains no substantial resources with conservation value.

[2]The total acreage under consideration is too small to preserve a substantial amount of land with conservation value (This criterion shall not be evaded by piecemeal subdivision of larger tracts.) or the lot configuration is unique and precludes preservation of a substantial amount of land with conservation value.

(g)In order to make the required showing under Subsection C(2)(f)[1] or [2] above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including, but not limited to, any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.

(h)Approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection by conservation easement of portions of the site identified in the conservation analysis.

(3)Types of development in a conservation subdivision. The allowable residential units may be developed as single-family or two-family dwellings. Within a conservation subdivision, a maximum of 25% of the residential units may be placed in two-family dwellings.

(4)Area and dimensional requirements.

(a)The minimum lot sizes permitted within conservation subdivisions shall be as follows:

[1]Within the R-1-20 District, where a site has both public water and sewer service, lot area shall not be smaller than 10,000 square feet.

[2]Within the R-1-30 District, where a site has both public water and sewer service, lot area shall not be smaller than 15,000 square feet.

[3]Within the SCR-1 District, where a site has both public water and sewer service, lot area shall not be smaller than 20,000 square feet.

[4]Within the MR, NC, RB-1, CC, I and LI Districts, where a site has both public water and sewer service, lot area shall not be smaller than 30,000 square feet.

[5]Within all areas not served by public water and sewer service, minimum lot sizes shall be determined by the Planning Board with regard to specific site characteristics and public health and safety concerns.

(b) Where a conservation subdivision abuts an existing residence in a residentially zoned area, a suitable buffer area shall be required by the Planning Board. This buffer shall be at least the same distance as the minimum rear or side yard setback in the district in which the abutting land is located.

(c) Where residential lots within a conservation subdivision abut agricultural operations, a suitable buffer area shall be required by the Planning Board. See also Town Code Chapter 107, Farming, for the Town of Canandaigua Right-to-Farm Law.

(d) The applicant shall specify dimensional requirements for a proposed conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the final plat.

(5) Town Clerk notations on Official Zoning Map. In accordance with § 278 of Town Law, when the final plat is filed with the County Clerk and a copy of the final plat is filed with the Town Clerk, the Town Clerk shall make appropriate notations and references thereto on the Town Zoning Map. The Town Clerk shall make such notations and references as needed, but not less frequently than semiannually.

(6) Conservation subdivision of a portion of larger tract. The Planning Board may entertain an application for a subdivision of a portion of a parcel if a conservation analysis is provided for the entire parcel, and the approval to develop a portion of the parcel is not a basis for the applicant or successor in interest to subsequently request an exception under Subsection C(2)(f) for the remainder of the parcel.

(7) Conservation subdivision design guidelines.

(a) Conservation subdivisions shall be arranged in a manner that protects land of conservation value.

(b) Preserved open space shall not be included as a portion of a building lot and shall be contained in one or more separate open space lots. Preserved open space shall be arranged contiguously to the greatest extent practicable. Unpaved areas contained within cul-de-sac turnarounds shall not be counted within open space configurations.

(c) Except as specified herein, conservation subdivisions and development thereof shall be subject to all requirements applicable to subdivisions.

(d) The Town's Farmland and Open Space Conservation Plan, and specifically the Lands of Conservation Interest Map, shows the location of ridgelines in the Town. As part of preliminary subdivision review, applicants shall provide written documentation of compliance with these guidelines, or any necessary variations therefrom.

D. Permanent open space. Open space set aside in a conservation subdivision shall be permanently preserved as required by this section. Any development permitted on land located in a conservation subdivision that is not protected as open space shall not compromise the conservation value of such open space land.

(1) Conservation value of open space. The open space protected pursuant to this section must have conservation value, which shall be determined in the course of the conservation analysis described in Subsection C(2) above.

(2) Permanent preservation by conservation easement.

(a) A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources or similar conservation purposes, pursuant to § 247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, and/or to a qualified not-for-profit conservation

organization acceptable to the Town Board. Such conservation easement shall be approved by the Planning Board and is required for final plat approval. The Planning Board shall require that the conservation easement be enforceable by a recognized land trust or similar agency, or the homeowners' association, if the Town is not the holder of the conservation easement. The Planning Board shall confirm that the deed includes language regarding the conservation easement prior to final approval. The conservation easement shall be recorded in the County Clerk's office, and recording information (liber and page) shall be shown on the final plat prior to filing of the final plat in the County Clerk's office.

(b) The conservation easement shall prohibit residential, industrial or commercial use of open space land (except in connection with agriculture, forestry and passive recreation) and shall not be amendable to permit such use. Driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails and agricultural structures shall be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices as described by the New York State Department of Environmental Conservation's Division of Lands and Forests.

(c) A land management plan, approved by the Planning Board, shall be included in the conservation easement. The land management plan shall contain the following information:

[1] A baseline property condition report fully describing conditions of the property to be protected under the easement.

[2] Primary contact information for all parties responsible for holding, monitoring and enforcing the easement.

[3] A monitoring schedule and associated requirements.

[4] A recordkeeping procedure.

[5] Enforcement policy.

[a] The conservation easement shall provide that if the Town Board finds that the management plan has been violated in a manner that renders the condition of the land a public nuisance, the Town may, upon 30 days' written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed against the landowner, or, in the case of a homeowners' association, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties.

[b] The conservation easement shall provide that if the Town's Code Enforcement Officer finds that the conservation easement or management plan has been violated in any way, the owner of the property and any persons or entities contributing to said violation shall be subject to the penalties specified for Zoning Code Violations in Town Code § 220-114, § 220-115, and § 220-99.

[6] An amendment procedure.

[7] For easements not held by the Town, a policy regarding dissolution of the easement-holding party.

(d) The Town's Code Enforcement Officer shall have authority to enforce any conservation easement in the Town regardless of whether said conservation easement has been granted to the Town. Enforcement of conservation

easements by the Town's Code Enforcement Officer shall be pursuant to the provisions of Town Code § 220-99(D).

(3) Notations of final plat. Preserved open space land shall be clearly delineated and labeled on the subdivision final plat as to its use, ownership, management, method of preservation and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The final plat shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement required by the section and shall include deed recording information in the County Clerk's office for the conservation easement.

(a) Ownership of open space land. Open space land may be owned:

[1] In common by a homeowners' association (HOA); or

[2] Offered for dedication to Town, county or state government; or

[3] Transferred to a not-for-profit conservation organization acceptable to the Planning Board; or

[4] Held in private ownership; or

[5] Held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.

(b) If the land is owned in common by a HOA, such HOA shall be established in accordance with the following:

[1] The HOA application must be submitted to the New York State Attorney General's office before the approved subdivision final plat is signed and must comply with all applicable provisions of the General Business Law. The HOA must be approved by the New York State Attorney General's office prior to issuance of the first certificate of occupancy from the Code Enforcement Officer.

[2] Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance and maintenance of common open space, private roads and other common facilities.

[3] The HOA must be responsible for liability insurance, property taxes and the maintenance of recreational and other facilities and private roads.

[4] Property owners must pay their pro rata share of the costs in Subsection D(3)(b)[2] above, and the assessment levied by the HOA must be able to become a lien on the property.

[5] The HOA must be able to adjust the assessment to meet changed needs.

[6] The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

[7] Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.

[8] The Town's Attorney shall find that the HOA documents presented satisfy the conditions in Subsection D(3)(b)[1] through [7] above and such other conditions as the Planning Board shall deem necessary.

E. Conservation subdivision procedures. In addition to all other requirements applicable to conventional two-stage subdivision review, the following shall apply to conservation subdivisions:

(1) Sketch plan. Applicants are encouraged to request a sketch plan discussion with the Planning Board prior to submission of a preliminary application.

(a) In addition to requirements specified in Town Code § 174-9, a sketch plan for conservation subdivision shall show the approximate area of the project considered to be constrained lands (wetlands, floodplains, steep slopes, etc.) and the area to be classified as developable lands.

(2) Preliminary subdivision review. In addition to information required pursuant to Town Code § 174-13, the preliminary subdivision application for a conservation subdivision shall contain the following:

(a) A density calculation, as described in Subsection C(2) above.

(b) A conservation analysis as described in Subsection C(3) above, including a proposed conservation analysis map.

(c) A schematic ("bubble") diagram showing which areas on the parcel would be developed and where land would be protected as permanent open space by a conservation easement.

(3) Final subdivision review. In addition to information required pursuant to Town Code § 174-14, the final subdivision application for a conservation subdivision shall contain the following:

(a) All the materials required for approval as provided herein, unless waived by the Planning Board.

(b) Proposed conservation easement(s) for the protection of permanent open space land.

(c) A final land management plan for the permanent open space areas, to be incorporated into the conservation easement and made enforceable by the Town.

(d) Other submission requirements as specified by the Planning Board.

§13. Town of Canandaigua Town Code § 96-5 is hereby amended as follows: the definition for "mean low and high water level" contained in § 96-5 shall be removed and replaced in its entirety with the following:

MEAN LOW AND HIGH WATER LEVEL

The approximate average low water level or high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Office of General Services, the mean low water level for Canandaigua Lake is 686.60 feet above mean sea level (National Geodetic Vertical Datum of 1929). According to the New York State Department of Environmental Conservation, Division of Environmental Permits, the mean high water level is 689.40 feet above mean sea level (National Geodetic Vertical Datum of 1929). These heights are measured above mean sea level.

§14. Town of Canandaigua Town Code Chapter 79 is hereby amended to include an fifth Article. Said Article shall be entitled “Article V – Prohibition of Hunting on Town Property” and shall include the following section:

§ 79-20 Prohibition of Hunting on Town Property

- A. Prohibition. There shall be no hunting on any property owned or operated by the Town of Canandaigua.
- B. Enforcement Officers. In addition to any law enforcement officer of the State of New York or County of Ontario, the Town’s Code Enforcement Officers shall have authority to enforce the provisions of this Section.
- C. Penalties for Offenses. In addition to any penalties provided in New York State Law, any person or persons found in violation of this Section shall be subject to a fine of up to \$1,000.00.

§15. Town of Canandaigua Town Code § 152-6, Sub-Section G is hereby amended to read in its entirety as follows: G. There is no hunting allowed on any Town Parkland, or on any other land owned or operated by the Town;

§16. Town of Canandaigua Town Code § 220-20 is hereby amended to read in its entirety as follows:

§ 220-20. MR Multiple-Residence District.

A. Purpose. The purpose of the MR Multiple-Residence District is to permit, where appropriate, the construction and development of multiple-family residences in the Town. At the same time, the Town does not desire the large-scale development of these units to the extent that large areas of the Town would be devoted to such use and single-family residences would be incompatible. Accordingly, additional areas may be zoned as a MR District upon application for a specific proposal in accordance with the normal rezoning procedures. In reaching its decision, the Town Board shall consider the general criteria set forth in this chapter, the adopted Comprehensive Plan for the Town, and this statement of purpose. Areas proposed to be zoned MR shall be served by sanitary sewers and public water.

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

- (1)Townhouses, in accordance with standards set forth in Subsection D(1).
- (2)Apartment Buildings in accordance with standards set forth in Subsection D(2).

(3)Two-family dwelling unit structures.C. Permitted accessory uses.

(1)Normal accessory uses designed as an integral part of the multifamily development and scaled for the exclusive use of the development

- (2)Private recreational facilities and areas.
- (3)Swimming pool(s).
- (4)Minor home occupations, as defined in Chapter 1, Article II.
- (5)Signs in compliance with § 220-84 of this chapter.

D. Dimensional requirements and design standards. The dimensional requirements for this district are specified in Schedule I of this chapter. In addition to the dimensional requirements set forth in Schedule

I, the following site design standards shall be applicable to all townhouse dwelling unit and multiple-family dwelling unit developments:

(1)Townhouse Development site design standards.

(a)The minimum area lot size for a townhouse development shall not be less than three acres.

(b)Density. Overall site density shall not exceed eight dwelling units per gross acre, and not more than eight dwelling units shall be allowed on any one acre of land.

(c)Individual dwelling unit lot criteria.

[1]The minimum lot area for each townhouse dwelling unit shall be 3,500 square feet.

[2]The minimum front setback shall be 25 feet.

[3]The minimum lot width at the front building line shall be 25 feet for a two-story townhouse unit.

[4]The minimum lot width at the front building line shall be 35 feet for a single-story townhouse unit.

[5]The minimum rear setback shall be 25 feet.

[6]The maximum lot coverage shall be 65%.

[7]The minimum lot depth shall be 140 feet.

[8]There shall be no accessory structures allowed.

[9]There shall be no common off-street parking areas allowed.

[10]Each townhouse dwelling unit shall have a minimum of one one-car garage.

[11]Where garages are accessed from the rear portion of the structure, the front building line shall continue to be the portion facing the street. In these instances, the minimum front setback shall be 10 feet.

[12]There shall be adequately sized common storage areas provided as part of each townhouse development site for the storage of boats, trailers, recreational vehicles and other personal vehicles. Each storage area shall be blacktopped, buffered by landscaping and maintained. No unregistered vehicle shall be allowed to remain in a common storage area. The minimum size for each common storage area shall be determined by the Planning Board as part of site plan approval. In the event a common storage area is not found to be adequately sized, either the landowner or the homeowners' association shall be responsible for providing additional area to meet need. This storage area shall not be used for off-street parking of vehicles.

[13] There shall be an adequately sized bulk storage area provided for each Townhouse Unit. The minimum size for such bulk storage area shall be determined by the Planning Board as part of site plan approval. In the event a bulk storage area is not found to be adequately sized, the landowner or homeowners association shall be responsible for providing additional area to meet need.

(d) Minimum habitable floor area per dwelling unit shall be:

[1] Townhouse unit, three bedrooms: 1,000 square feet.

[2] Townhouse unit, two bedrooms: 850 square feet.

(e) No exterior wall shall exceed 50 feet in length unless there is a lateral offset of at least four feet in its alignment not less frequently than along each 50 feet of length of such exterior wall.

(f) Each Townhouse Building shall contain not more than eight dwelling units.

(g) Parking requirements. Requirements for off-street parking as provided in Article VIII of this chapter shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all dwelling units each parking area is intended to serve. In addition to the standards required in Article VIII, the following standards shall be met:

[1] A minimum of two paved parking spaces shall be provided for each dwelling unit, one of which shall be completely enclosed and covered.

[2] Appropriate screening shall be provided as to prevent glare from headlights.

(h) Each townhouse development shall have adequate pedestrian-separated facilities (sidewalks) connecting all townhouse dwelling units in the development.

(i) Each townhouse dwelling unit lot shall have a minimum of two trees to be planted prior to the issuance of a certificate of occupancy, or due to seasonal conditions, said trees are to be planted within six months of the issuance of a temporary certificate of occupancy.

(j) Each on-site stormwater facility shall be adequately landscaped.

(k) Each townhouse development shall either have mailboxes attached to the front of each structure, or a common mailbox area with adequate pull-off for both postal delivery vehicles and private vehicles. There shall otherwise be no mailboxes allowed along the side of a street.

(l) Each townhouse development shall contain streetlighting spaced at each intersection, at any cul-de-sac or dead-end street and any common parking area. Streetlighting shall be dark sky compliant as further regulated in § 220-77 of the Town Code.

(m) Each townhouse development street name shall be in compliance with the Ontario County 911 Street Naming Regulations.

(n) Where a townhouse development does not have public streets serving the townhouse dwelling units, then provisions shall be made with the local school district for the use of an acceptable off-street area to be used for the loading and unloading of school children. Each such area shall have a well-designed all-weather structure for use by students awaiting pickup or dropoff. Each such area shall be adequately illuminated in accordance with Town lighting standards.

(2) Apartments and Condominium site design standards.

(a) The minimum lot size for apartment building developments shall not be less than three acres.

(b) Density. Density shall not exceed eight dwelling units per gross acre.

(c) Floor areas. Minimum floor areas, exclusive of common areas such as halls, foyers and basement utility areas, shall be as follows:

- [1] Apartment unit, efficiency: 450 square feet.
- [2] Apartment unit, one-bedroom: 550 square feet.
- [3] Apartment unit, two-bedroom: 700 square feet.
- [4] Apartment unit, three-bedroom: 800 square feet.
- [5] Apartment unit, four-bedroom: 900 square feet.

(d) Open space. There shall be at least 400 square feet of common open space exclusive of the required setback areas, buffer strips and parking areas which shall be designated for recreation, active and/or passive, for each apartment building.

(e) Unit distribution.

[1] No more than 30% of the total units within an apartment building development shall be efficiency units

[2] No more than 40% of the total units within an apartment building development shall be three or more bedroom units.

(f) Apartment Building Development Design Standards.. Each apartment building development site shall be regulated as follows:

[1] Minimum distance between buildings shall be 50 feet.

[2] Direct line of sight visibility, from front to rear, from one building to another shall not be less than 100 feet.

[3] Every building shall have a minimum setback of 25 feet from all interior roads, driveways and parking areas.

[4] A strip of land around each apartment building, at least six feet in width, shall be kept completely open except for foundation plantings of less than six feet in height.

[5] Courtyards bounded on three sides by the wings of a single building, or by the walls of separate buildings, shall have a minimum court width of two feet for each one foot in height of the tallest adjacent building.

[6] No exterior wall shall exceed 100 feet in length unless there is a lateral offset of at least eight feet in its alignment not less frequently than along each 100 feet of length of such exterior wall.

[7] All stairways to the second floor or higher shall be located inside the building.

(g) Access to public roads.

[1] All apartment building developments shall have direct access to a public road.

[2] Where there are 12 or more dwelling units in an apartment building development, access from the common parking area(s) to the public road must be provided by either a private driveway or a road dedicated to the Town by the developer.

[3] Where there are 50 or more dwelling units in an apartment building development, the Town Planning Board may require an additional access, to that required above, to a public road as a condition of site plan approval.

[4] In no event shall the Town Planning Board allow more than 150 units to be served by one access to a public road.

(h) Services.

[1] Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.

[2] There shall be a minimum common storage area in each building for bicycles and similar types of equipment of 40 square feet in area, a minimum of five feet in height and not less than four feet in width per each dwelling unit.

[3] Within each building there shall be sufficient laundry, drying and other utility areas.

[4] Garbage storage areas shall be provided for each building. Such facilities shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls or shrubbery of at least six feet in height around the perimeter. Fencing and walls shall be not more than 50% open on the vertical surface.

[5] There shall be an adequately sized bulk storage area provided for each apartment building. The minimum size for such bulk storage area shall be determined by the Planning Board as part of site plan approval. In the event a bulk storage area is not found to be adequately sized, the landowner shall be responsible for providing additional area to meet need.

(i) Utilities.

[1] All public utilities, electric, gas, cable television and telephone lines shall be installed underground.

[2] An adequate supply of public water shall be provided to all dwelling units.

[3] All dwelling units shall be connected to public sewers.

E. Special permitted uses. The following uses may be permitted consistent with the provisions of Article VI, provided that a special use permit is issued by the Town Planning Board:

(1) Essential services, public utilities substations and uses, excluding power plants or repair yards and warehouses or uses similar in nature.

(2) Public uses.

§17. Town of Canandaigua Town Code § 174-32 is hereby amended to read in its entirety as follows:

§ 174-32. Sureties.

A. Provisions of this section are administered as provided for in New York State Town Law § 277, as amended.

B. In compliance with New York State Town Law Article 16, § 277, Part 9, as may be amended, surety may be required by the Planning Board as a condition of site plan or subdivision approval in order to assure proper installation of proposed improvements, including but not limited to utilities, drainage facilities and roads.

C. Sureties shall be in amounts as approved by the Town Engineer or the Town Code Enforcement Officer and shall include costs, including:

(1) Estimated construction cost of all required improvements;

(2) A minimum contingency factor of 10%;

(3) A minimum of 6% for engineering and construction observation charges based on the project complexity and construction schedule;

(4) Installation of street signs and surveyor's monuments;

(5) Mapping; and

(6) Development of record drawings of installed facilities.

D. The form of the sureties shall comply with New York State Town Law and shall be approved by the Town Board Attorney.

E. After approval by the Town Engineer and Town Board Attorney, a complete description of the surety will then be provided to the Town Board who shall either accept or reject the surety.

F. Accepted sureties will be filed with the Town prior to the issuance of building permits.

G. Inspection. All improvements covered under a performance surety must be inspected during construction. Costs of the required inspections shall be estimated by the Town Engineer and will be borne by the developer and shall be included in the initial value of the surety.

(1) The inspection procedure is designed to determine compliance with the approved plans.

(2) For inspection purposes, the contractor will notify the Town when construction will be undertaken on proposed improvements. Reasonable notice is required.

(3) Inspections are the responsibility of the Town Engineer, Highway and Water Superintendent, Town of Farmington Water and Sewer Superintendent and/or Town of Canandaigua Code Enforcement Officer, and other agencies as required and appropriate.

H. Surety default and retention.

(1) If the required improvements are not completely installed within the period as may be fixed or extended by the Planning Board, the Town Board may declare the surety in default and collect the amount payable thereunder. Upon receipt of such amount, the Town shall cause to install such improvements as were covered by the surety and as commensurate with the extent of building development that has taken place in the subdivision, not exceeding in cost, however, the amount collected from the surety.

(2) If within one year's time from the certificate of occupancy, remedial or landscaping work is incomplete, the Town shall complete said work and deduct costs from the posted sureties.

(3) The soil and erosion sureties will be retained until all disturbed pervious areas are 80% covered with vegetative controls (grass), at which point the escrow shall be released to the applicant.

I. Release of sureties. Upon completion of required improvements, the applicant may request full or partial release of sureties filed with the Town.

(1) The process for a release of surety will be initiated when a written request for partial or total release is submitted to the Town Development Office for approval.

(2) The request will then be reviewed by appropriate Town Staff or the Town Engineer and compared with the inspection record.

(3) Development Office staff will then forward a recommendation regarding the request to the Planning Board for their formal consideration.

(4) Recommendations by the Planning Board for full or partial release of funds shall be forwarded to the Town's Fiscal Officer, who shall release the specified funds.

(5) Approval by the Town for authorized periodic payments is not to be construed as acceptance of the work completed to date.

(6) Retainage shall be released only after a maintenance bond has been accepted by the Town and subject improvements have been tested and found acceptable by the Town's representatives.

§18. Town of Canandaigua Town Code § 220-21 is hereby amended to read in its entirety as follows:

§ 220-21. RLD Residential Lake District.

A. Purpose. The purpose of the RLD Residential Lake District is to allow limited residential uses that protect the quality of Canandaigua Lake and the surrounding natural topography, including the shoreline, ridgelines, and scenic vistas of this unique and environmentally sensitive area.

B. Permitted principal uses.

- (1) One single-family dwelling per lot.
- (2) Public parks.
- (3) Public safety facilities.

C. Permitted accessory uses.

(1) One detached private garage no taller than 16 feet and one attached private garage may be permitted.

[Amended 5-20-2013 by L.L. No. 7-2013]

(2) One accessory building/structure, not to exceed 100 square feet in total area and 10 feet in height above average finished grade may also be permitted. Except as provided in Subsection C(2)(c) and (d), and Subsection D below, setback requirements for accessory buildings/structures are specified in Attachment 1, Zoning Schedule.

(a) If the principal building on a lakefront is located on the lake side portion of the lot, then the accessory building/structure may be permitted in the side yard of the principal building.

(b) If a lakefront lot is divided by a street and the principal building is located on the lake side portion of the lot, then the accessory building/structure may be permitted on the portion of the lot opposite the lake side. In this instance, the front setback shall not be less than 60 feet, the rear setback shall not be less than 10 feet, and the minimum side yard setback shall be 10 feet.

(c) If a lakefront lot is divided by a street and the principal building is not located on the lake side portion, then the accessory building/structure may be located in the rear yard of the principal building.

(d) If a lakefront lot is divided by a street and the principal building is not located on the lake side portion, then the accessory building/structure may be located on the lakeside portion and may contain a rest room, but only with public water and sewer service. In this instance, the front setback shall not be less than 10 feet, the rear setback shall not be less than 25 feet and the minimum side yard setback shall be 10 feet.

(e) There shall be no additions to an accessory building/structure such as, but not limited to, decks, porches and cantilevers.

(3) Seasonal storage, commencing no earlier than October 31 of any year and continuing no later than May 31 of the following year, of docks, hoists and buoys permitted to be used on the premises by the provisions of Chapter 96, Canandaigua Lake Uniform Docking and Mooring.

(4) Hot tubs.

(a) Definitions. As used in this section, the term "hot tub" shall have the meaning set forth in Chapter 1, Article II.

(b) Installation. No hot tub shall be installed unless a building permit shall have been issued in accordance with the New York State Uniform Fire Prevention and Building Code and the provisions of the Town Code, general requirements. With the exception of Subsection C(5)(a) and (b), every hot tub shall conform to the provisions set forth for swimming pools in this chapter.

(c) No permit shall be issued for such hot tub unless it is shown that the proposed drainage for such hot tub shall not drain directly to neighboring properties or Canandaigua Lake.

(5) One in-ground swimming pool is allowed for each lot. In addition, each in-ground swimming pool in the RLD:

(a) Shall be located only within the side yard of a lot or the rear yard of the lot if not adjoining Canandaigua Lake.

(b) Shall not be located in the front yard of a lot or in the rear yard of a lot where said rear yard adjoins Canandaigua Lake.

(c) Shall be included as part of lot coverage as measured by the water surface and all adjoining impervious surfaces.

(d) Shall meet the setback requirements for an accessory building/structure within the RLD.

D. Dimensional requirements. The dimensional requirements for this district are specified in Schedule I, which is made a part of this chapter. However, pre-existing nonconforming lots that are less than 20,000 square feet shall be subject to the following setback requirements:

- (1) **Lots less than 10,000 square feet**
 - a. **Principal Structures**
 - i. **Front setback shall be 50 feet.**
 - ii. **Rear setback shall be 30 feet.**
 - iii. **Side setbacks shall be 5 feet.**
 - b. **Accessory Structures**
 - i. **Rear setback shall be 15 feet.**
 - ii. **Side setbacks shall be 5 feet**
 - c. **Maximum Building Coverage on lot shall not exceed 25%.**
 - d. **Maximum Lot Coverage shall not exceed 40%.**
- (2) **Lots more than 10,000 square feet but less than 20,000 square feet**
 - a. **Principal Structures**
 - i. **Front setback shall be 55 feet.**
 - ii. **Rear setback shall be 30 feet.**
 - iii. **Side setbacks shall be 9 feet.**
 - b. **Accessory Structures**
 - i. **Rear setback shall be 15 feet.**
 - ii. **Side setbacks shall be 9 feet.**
 - c. **Maximum Building Coverage on lot shall not exceed 20%.**

d. Maximum Lot Coverage shall not exceed 30%.

e. Rear setbacks shall be measured from the Mean High Water Mark.

E. Special permit uses.

(1)Essential services, public utility facilities or communications installations.

(2)Tourist home.

F. Special provisions subject to all development within the RLD Residential Lake District.

(1)No accessory buildings or tennis courts shall be constructed within rear yards adjoining Canandaigua Lake.

(2)Erosion/sedimentation control measures shall be used before, during and after construction until ground cover is reestablished as specified in Chapter 165 of the Town of Canandaigua Code, Soil Erosion and Sedimentation Control.

(3)All boat docking, mooring and other related improvements in or on the waters of Canandaigua Lake are governed by Chapter 96 of Town Code.

§19. Town of Canandaigua Town Code § 1-17 is hereby amended as follows:

(a) The definition of “BUILDING COVERAGE, PERCENT OF” shall be replaced in its entirety with the following:

BUILDING COVERAGE

The area of all building footprints on a lot divided by the lot area. This includes all principal and accessory buildings, covered breezeways, covered porches, covered cantilevered structures, and decks.

[Amended 7-25-2005 by L.L. No. 7-2005; 4-8-2013 by L.L. No. 2-2013]

(b) The following definition shall be added:
LOT COVERAGE

The area of all structures on a lot divided by the lot area.

(c) The definition of “STRUCTURE” shall be replaced in its entirety with the following:
STRUCTURE

Anything constructed or erected which requires temporary or permanent support, placement or attachment to the ground, beneath the ground or to something having permanent location on the ground, including, but not limited to, gasoline and oil tanks, buildings, sheds, pools, decks, docks, manufactured homes, fences [excluding seasonal snow fence as further regulated in Chapter 220, § 220-9K(9) of the Town Code], signs, billboards, towers, antennas, satellite TV dishes, patios, sidewalks, driveways, and impervious or substantially impervious surfaces. The term does not include vegetative landscaping.

(d) The definition of “ACCESSORY STRUCTURE” shall be replaced in its entirety with the following:

ACCESSORY STRUCTURE

A detached structure, but not including buildings, subordinate and incidental to the principal building or structure on the same lot, that contributes to the comfort, convenience, or necessity of the occupants of the principal building or structure and that is used for a purpose incidental to the use of the principal building or structure. Accessory structures include but are not limited to swimming pools, tennis courts, basketball courts, paddleball courts, patios, decks, generators, and fences.

- (e) **The definition of “WADING POOL” shall be replaced in its entirety with the following:**
WADING POOL

A temporary pool intended for use by children with a maximum water depth of 24 inches.

- (f) **The definition of “STORAGE” shall be replaced in its entirety with the following:**
VEHICLE STORAGE

The parking of a licensed vehicle for a period in excess of nine consecutive days, unless otherwise restricted. The parking of an unlicensed vehicle for any period of time, except as exempted herein. The incidental movement of a vehicle on or off the property shall not affect the calculation of the nine-day time period.

- (g) **The following definition shall be added**
NATURAL RESOURCES INVENTORY

Natural Resources Inventory shall mean the document adopted by resolution of the Canandaigua Town Board on December 19, 2011 entitled “Town of Canandaigua Natural Resources Inventory (NRI)” together with the maps attached thereto. Said report and maps have an effective date of March 1, 2012. Copies of the NRI report and maps are available at the Town Clerk’s Office.

- (h) **The definition of “TEMPORARY USE” shall be replaced in its entirety with the following:**
TEMPORARY USE

A use which takes place for a set period of time that does not exceed 12 months and does not involve construction or alteration of any permanent structure.

- (i) **The following definition shall be added:**
STORAGE, BULK

A dedicated area for the storage of large items such as bicycles, baby carriages, patio furniture, and other recreational equipment that shall be a minimum of 30 square feet

- (j) **The definition of “APARTMENT BUILDING” shall be replaced in its entirety with the following:**
APARTMENT BUILDING

A building arranged, intended or designed to provide three or more apartments or condominiums, independent of each other, but having common hallways and entrances.

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- (k) **The following definition shall be added:**
APARTMENT BUILDING DEVELOPMENT

An Apartment Building or group of Apartment Buildings.

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- (l) **The definition of “ATTACHED DWELLINGS” shall be removed in its entirety.**
(m) **The definition of “DWELLING, MULTIPLE (MULTI) FAMILY” shall be removed in its entirety.**
(n) **The definition of “TOWNHOUSE CLUSTERS” shall be removed in its entirety.**

- (o) **The following definition shall be added:**
TOWNHOUSE BUILDING

A building containing three or more Townhouses.

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- (p) **The definition of “TOWNHOUSE DEVELOPMENTS” shall be replaced in its entirety with the following:**
TOWNHOUSE DEVELOPMENTS
A Townhouse Building or group of Townhouse Buildings.

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- (q) **The definition of “WATER MARKS, MEAN LOW AND HIGH” shall be replaced in its entirety with the following:**

WATER MARKS, MEAN LOW AND HIGHT

See Chapter 96 for definition of this term.

§20. The Zoning Schedule attached to Chapter 220 of the Town of Canandaigua Town Code as 220a Schedule I is replaced in its entirety with the following: *****SEE EXHIBIT A*****

§21. Severability Clause

The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

§22. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

§ 220-63. Special Use Permit for Commercial Speech Signs

- C. The Town Planning Board may approve a Special Use Permit for a Commercial Speech Sign in the CC Community Commercial District provided that the general conditions set forth in §220-35 of this article and the following standards are met:**
- (5) Prior to granting Special Use Permit Approval, the Town Planning Board must make a finding that the proposed sign is in compliance with the standards set forth in § 220-83.**
 - (6) The specific location of the proposed sign must be shown on a Site Plan approved by the Planning Board.**
 - (7) Prior to granting Special Use Permit Approval, the Planning Board must make a finding that the proposed signage will not compromise the aesthetic appearance of the surrounding neighborhood.**
 - (8) Prior to granting Special Use Permit Approval, the Town Planning Board must make a finding that the proposed signage will not significantly increase the magnitude of hazards to motorists and pedestrians caused by sign distractions.**
- D. Special Use Permit Not Required. Pursuant to § 220-83, a Special Use Permit is not required for commercial speech signs in the CC Community Commercial District, but can be obtained for the property owner’s convenience.**

§ 220-23. CC Community Commercial District.

A. Purpose. The purpose of the CC Community Commercial District uses is to provide a broader range of general and comparison commercial goods, services and facilities necessary to serve the needs of the population of major portions of the Town and adjacent areas.

B. Permitted principal uses.

(1) Any use permitted in a Neighborhood Commercial (NC) District.

(2) Shopping centers, malls, plazas or other grouping of commercial uses and buildings.

(3) Theaters, concert halls, stage productions or similar places of assembly when conducted within enclosed buildings.

(4) Newspaper printing, including incidental job printing.

(5) The sale, lease or rental of vehicles, provided that:

(a) Such sales shall be conducted in a fully enclosed building located on the same lot and having a building area of not less than 1,000 square feet devoted to the sales and services of vehicles.

(b) The sale of vehicles may be carried on in an unenclosed area, provided that:

[1] Such area is on the same or an adjacent lot to such building. If the enclosed area is on an adjacent lot, the lot shall be not more than 200 feet from the lot with the building and shall further be in the same ownership as said building, be in a Community Commercial (CC) District, and be used for no other purpose.

[2] Such unenclosed area shall be paved, shall be suitably drained, and shall be maintained in a neat and orderly manner.

[3] All exterior illumination shall be approved by the Planning Board and shall be shielded from the view of all surrounding properties and streets in compliance with Town Code § **220-77**.

[4] Suitable landscaping and/or fencing of such unenclosed area shall be required.

[5] As used in this section, the sale of new vehicles shall be deemed to mean only the sale of such vehicles under a franchise granted to the person, firm, or corporation conducting such business by a vehicle manufacturer. Used vehicles shall be sold only in connection with the sale of new automobiles.

[6] No establishment for the sale of new and used vehicles shall be opened, conducted, or maintained except as provided above. Site plans for any changes required to bring about such conformance shall be submitted to and approved by the Planning Board before any such change shall be made. The Planning Board may approve, modify,

or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this chapter shall be observed.

(6) Commercial uses such as gift shops, tourist shops, clothing stores, furniture stores, craft shops, sporting goods, shoe stores, grocery stores and liquor stores.

(7) Laundromats and dry cleaners.

(8) Building supply and farm equipment stores and truck garden nurseries.

(9) Electrical, heating, plumbing or woodworking shops.

(10) Assembling, converting, altering, finishing, cleaning, or any other processing of products, provided that:

(a) Goods so produced or processed are to be sold at retail, exclusively on the premises.

(b) Space used for such purposes shall not occupy more than 20% of the area devoted to retail sales, shall be clearly incidental to such retail use and shall be fully concealed from any street.

(c) Not more than two persons shall be engaged in such production/processing at any one time.

(11) Produce markets.

(12) Funeral parlors.

(13) Bowling alley, billiard hall or indoor skating rink, or similar forms of indoor commercial recreation.

(14) Upon the approval of the Town Planning Board, a principal building may contain a combination of residential and business uses, provided that such residential uses are accessory to the business conducted and located elsewhere than on the street frontage of the ground floor.

(15) Restaurants.

(16) Financial services.

(17) Offices of business, professional or financial organizations.

(18) Essential services and public utilities substations, excluding power plants, maintenance buildings and storage yards.

(19) Car wash establishments.

(20) Rental of trucks, trailers, etc., associated with gasoline services stations or other uses.

(21) Motel or hotel.

(22) Farm and craft markets.

(23) Antique shops.

C. Permitted accessory uses and structures.

(1) Any accessory use permitted in the Neighborhood Commercial District.

(2) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.

(3) Off-street parking, loading and unloading facilities, signs, fences and landscaping, subject to the provisions of this chapter.

D. Dimensional requirements.

(1) The dimensional requirements for this district are specified in Schedule I,^[1] which is a part of this chapter.

[1]: *Editor's Note: Schedule I is included at the end of this chapter.*

(2) Driveway spacing and corner clearance requirements are specified in Schedule I-A,^[2] which is a part of this chapter.

[2]: *Editor's Note: Schedule I-A is included at the end of this chapter.*

E. Special permitted uses. The following uses may be permitted, consistent with the provisions of Article VI, provided that a special use permit is approved by the Town Planning Board:

(1) Motor vehicle service stations and motor vehicle repair stations.

(2) Fast-food service restaurant.

(3) Research, engineering, and light manufacturing, as follows:

(a) Scientific or engineering research and/or experimental development of materials, methods or products;

(b) Engineering design of products and laboratory research;

(c) Manufacture of:

[1] Electric, electronic or optical instruments or devices;

[2] Scientific, laboratory and process control instruments and devices; and

[3] Computers and data processing equipment.

(d) Light manufacturing, assembling, fabrication, coating, painting, washing or packaging of products produced from previously prepared materials such as textiles, plastics, paper, leather, metals or stones, glass, ceramics, base metal bar, sheet, and special shapes; and

(e) Testing and repairing of the products or type of products which may be manufactured in the district.

(4) Personal wireless communications facilities.

(5) Public uses.

(6) Temporary uses.

(7) Commercial speech signs.

§ 220-73. Off-street parking regulations.

Purpose: In all districts there shall be provided, at the time any building or structure is erected, enlarged, increased in capacity or changed in use, improved and usable off-street parking spaces for motor vehicles in accordance with the requirements of this article, Zoning Schedule II, or the New York State Uniform Fire Prevention and Building Code. In the instance where there may be a conflict between the requirements of these three sources, the stricter regulations shall govern. In such cases, off-street parking facilities shall be provided as hereinafter specified for the building as enlarged, or to accommodate the needs of the new use.

A. Design requirements.

(1) Off-street parking space shall be provided as further specified in this chapter and shall be furnished with necessary passageways and driveways. For the purposes of this chapter, a parking space shall not be less than 10 feet in width and 20 feet in depth, exclusive of accessways and driveways.

(2) Off-street parking areas for nonresidential uses shall provide a minimum additional area of 100 square feet of area per off-street parking space to provide sufficient area for access drives and aisles.

(3) Off-street parking areas with a capacity for more than 20 vehicles shall delineate fire lanes and post "no parking" markers.

(4) Any off-street parking area with at least 20 off-street parking spaces shall designate a minimum of 5% of those spaces, up to a maximum of 10 spaces, as reserved only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall be at least 14 feet in width and 20 feet in depth.

(5) All off-street parking space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner. It shall not be separated by a public highway or right-of-way.

(6) All parking areas, passageways and driveways (except where provided in connection with one- and two-family dwellings, or farm residences and buildings) shall be adequately drained and will have a durable surface, subject to approval of the Town Planning Board.

(7) Each off-street parking space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any motor vehicle may be parked and unparked without moving or damaging another.

(8) The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots may be approved by the Planning Board, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.

(9) Parking areas may be located in any yard space for nonresidential uses but shall not be located:

(a) So as to impinge on the minimum required buffer width, as measured from the property lot line, as established in § 220-76D; or

(b) For properties of 60,000 square feet or less in size, any closer than 10 feet to any side or rear property line unless specifically approved by the Planning Board as part of a multiple-parcel shared parking plan; or

(c) For properties greater than 60,000 square feet in size, any closer than 20 feet to any side or rear property line unless specifically approved by the Planning Board as part of a multiple-parcel shared parking plan.

(10) No driveway to an off-street parking area shall be located closer than 50 feet to the intersection of any two streets or within 10 feet of any side lot line identified in § 220-9V(3) or (4) of this chapter, provided further that sufficient distance will always remain for all required radii for said driveway, that said driveway will not be determined by the Planning Board to adversely affect the minimum sight distance for motorists, as recommended in various Town, county and state highway design and traffic safety manuals, or prevent the stacking of vehicles along the highway where there is a traffic control device operating. No driveway to an off-street parking area serving a lot identified in § 220-9V(4) of this chapter shall be located within 20 feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway, that said driveway will not be determined by the Planning Board to adversely affect the minimum sight distance for motorists, as recommended in various Town, county and state highway design and traffic safety manuals, or prevent the stacking of vehicles along the highway where there is a traffic-control device operating. Where a traffic study identifies a different distance to the intersection of any two streets would provide improved highway safety and efficiency, the Planning Board may then require said cited distance as a condition of subdivision or site plan approval. The distance from the driveway to the intersection shall be measured by extending the curb or pavement line of the intersecting street until it intersects the curb or pavement line, extending, if necessary, of the driveway in question. In addition, the minimum separation required by § 220-9V(2), (3), or (4) shall be maintained between two driveways located on any one frontage.

B. Location of off-street parking facilities. Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking facility to the nearest public entrance of the building that such facility is required to serve.

(1) For one- and two-family dwellings and for all types of residential structures on the same lot with the building they are required to serve.

(2) For multiple-family dwellings, not more than 200 feet from the building they are required to serve.

(3) For other uses, not more than 360 feet from the building they are required to serve.

C. Screening and landscaping.

(1) Off-street parking areas for more than five vehicles shall be effectively screened on the rear and side yards by a fence of acceptable design, unpierced masonry wall, landscaped berm or compact evergreen hedge. Such fence shall be erected and maintained in accordance with § 220-9K of these regulations. Such wall or hedge shall not be less than six feet in height and shall be maintained in good condition.

(2) When a parking area for five or more vehicles is within or abuts a residential district, a planted buffer area shall be provided in addition to the fence or wall specified in Subsection C(1) above. Landscaping utilized to provide this buffer shall not be less than four feet in height at the time of planting and spaced not more than three feet apart. The planted buffer area shall not be less than 10 feet in depth.

D. Lighting.

(1) All off-street parking areas and appurtenant passageways and driveways (excluding areas serving one- and two-family dwellings and farm dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.

(2) Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining property.

E. Units of measurement.

(1) In churches and other places of assembly in which patrons or spectators occupy benches, bleachers, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities.

(2) When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one parking space.

F. Mixed occupancies and uses not specified. In any case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the Town Planning Board. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint use.

G. Joint use. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

H. Required off-street parking space. Required off-street parking space for specific uses as regulated in this chapter is contained in Schedule II,

Editor's Note: Schedule II is included at the end of this chapter.

which is part of this chapter.

I. Authority for Planning Board to Modify Required Number of Parking Spaces.

- (4) **Where the Planning Board is reviewing an application for Site Plan Approval, the Planning Board is hereby authorized to modify the required number of parking spaces contained in Schedule II, provided that the Planning Board does not reduce said number of required parking spaces by more than 50%.**
- (5) **Such modification may take place only after the Planning Board finds that either:**
 - (d) **Applicant has demonstrated that the specific use routinely requires fewer parking spaces than required by Code; or**
 - (e) **Applicant has demonstrated that adequate public off-street parking facilities are available within 400 feet of the lot containing the subject use; or**
 - (f) **Applicant has provided evidence of satisfactory off-site parking arrangements.**
- (6) **Where the Planning Board modifies the required number of parking spaces pursuant to this section, the Planning Board shall impose such conditions as it deems necessary.**

§ 220-33. Mixed Use Overlay Districts.

A. Purpose. It is the purpose of the MUO Mixed Use Overlay District to provide supplemental regulations to the underlying zoning districts that are located within the three growth nodes identified in the adopted Town of Canandaigua Comprehensive Plan. The MUO Mixed Use Overlay District process enables a narrowly defined mix of land use to occur on sites located within one of the three growth nodes once the land has been rezoned and final site plan approval has been obtained. These three growth nodes are identified on the Official Zoning Map and shall be known as the MUO Mixed Use Overlay District.

B. Intent. It is the intent of the MUO Mixed Use Overlay District to enable a mix of land use to occur within the three growth areas once final site plan approval has been obtained from the Town Planning Board. Final site plan approval within these three growth node areas shall be subject to the following design standards:

(1) A site plan that will continue to attract appropriate development in order to expand upon the economic and fiscal base of the Town in a manner that maintains the unique character of the respective growth node and contributes to maintaining a high quality of life within the community;

(2) A site plan that encourages architectural and site design that is compatible with the site's surroundings;

(3) A site plan that encourages buildings that provide an appropriate transition between adjacent sites within the growth nodes;

(4) A site plan that encourages buildings that are protective of open space resources important to the Town;

(5) A site plan that establishes a clear and consistent character for new structures with existing structures and sites;

(6) A site plan that reduces delays and avoids confusion that developers, landowners, or business operators may encounter during the construction phase of the proposed project; and

(7) A site plan that the Planning Board finds will minimize land use conflicts between adjacent sites and within the growth node area to the greatest extent practicable.

C. Establishment of the Mixed Use Overlay (MUO) District.

(1) The Mixed Use Overlay (MUO) District growth areas referenced above herein shall be delineated on the Town's Official Zoning Map. This delineation shall serve only to establish the eligibility of a parcel of land located therein for consideration of a mixed use designation as MUO.

(2) Process. An owner of a parcel of land located within a growth node delineated on the Official Zoning Map of the Town of Canandaigua as a Mixed Use Overlay District shall submit a rezoning petition to the Town Board requesting the adoption of a local law to rezone the parcel of land to a Mixed Use District consistent with the growth node. If the Town Board decides to consider the petition, then the Town Board may refer the petition to the Planning Board for an advisory report which report shall be returned by the Planning Board to the Town Board within sixty (60) days. If the Town Board decides to further consider the rezoning petition, then the Town Board may direct the owner to prepare and submit an application for Preliminary Site Plan approval to the Planning Board. The owner shall then have one-hundred and eighty (180) days, which period may be extended from time to time by the Town Board, to

obtain Preliminary Site Plan approval from the Planning Board conditioned upon the proposed rezoning to a Mixed Use District. The Town Board, after receipt of the Preliminary Site Plan approval, if required, may then consider the rezoning petition for final determination.

D. Interpretation of Mixed Use Overlay (MUO) District boundaries. The Town Board shall be responsible for interpreting the MUO District boundaries delineated on the Official Town Zoning Map. Prior to making such an interpretation, the Town Board shall receive a recommendation from the Town Zoning Officer as to whether the proposed development lies within the boundaries of the MUO District boundaries. Anyone aggrieved by this interpretation may appeal to the Town Zoning Board of Appeals.

E. Mixed Use Overlay (MUO) District requirements.

(1)Dimensional requirements. The dimensional requirements of the respective underlying zoning district shall be met as a condition of final site plan approval except when a mixed use involves a use allowed or specially permitted in one of the other underlying zoning districts located within a mapped MUO District. In this instance, the dimensional requirements shall be those for the more intense district.

(2)Single use permitted. Within the Mixed Use Overlay District, only one use shall be permitted per parcel of land.

(3)Additional mixed use permitted. Where a parcel of zoned MUO District land exceeds the minimum dimensional requirements for a particular use, additional mixed uses may be permitted on the remaining portion of land only when additional lots have been created, the new lots rezoned to the MUO District and final site plan approval granted. There shall be no piecemeal or segmented development allowed within the MUO District.

(4)Open space. Each MUO District site shall maintain a minimum of 40% open space. Open space as defined herein does not include constrained lands (e.g., floodplains, freshwater wetlands, slopes of 15% or greater, ridgelines, shorelines, or a maximum of five acres of woodland per site). Open space also does not include driveways, parking spaces, aisles, dumpster enclosures, drainage facilities, or an area to be used for outdoor storage of materials or equipment.

(5)Site plan approval. Each MUO District site shall be subject to site plan approval by the Town Planning Board in accordance with the provisions of Article VII.

(6)Supplementary regulations. Each MUO District site shall be subject to compliance with the supplemental regulations contained in Article VIII.

F. Mixed Use Overlay District Regulations.

(1)Permitted uses. The following mix of land use is permitted on a legal lot located within the MUODistrict:

(a)One single-family dwelling.

(b)Multiple-family dwellings, including apartment complexes, where public sewer and water service exist.

(c)Permitted and special permitted Community Commercial, Neighborhood Commercial, Industrial and Limited Industrial District uses.

(d)Outdoor recreational facilities and amusement businesses.

(e)General or specialized farming operations, buildings and structures.

(f) The office of a physician, veterinarian, dentist, musician, teacher, lawyer or a member of some other recognized profession, or the studio of an artist, or the office of a resident agent such as real estate or insurance agent.

(g) Mini-warehouse storage facilities.

(2) Dimensional requirements.

(a) Functional stories. The maximum height of a mixed use structure shall not exceed 35 feet above existing grade.

(b) Maximum building height. The maximum height for commercial and industrial types of land use is limited to 60 feet above existing grade.

(c) Maximum gross square footage. The maximum gross square footage per building is 40,000 square feet.

(d) Maximum building footprint. The maximum square footage for a building footprint shall be 20,000 square feet.

I. 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.

§ 220-94. Violation of Zoning Board of Appeals conditions or restrictions.

Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance, or a modification of regulations, shall constitute a violation. Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies against the property owner or other offending parties.

§ 220-98. Violation of Planning Board conditions or restrictions.

Failure to comply with any condition or restriction imposed by the Planning Board in granting any Site Plan Approval, Special Use Permit, or Subdivision Approval shall constitute a violation. Such violation may constitute the basis for revocation of the approval or permit, or for imposing penalties and other applicable remedies against the property owner or other offending parties.

§ 220-92. Creation, appointment and organization of Zoning Board of Appeals.

A. The Town Board does hereby establish a Zoning Board of Appeals.

(1) The number of members of the Zoning Board of Appeals shall be five members.

(2) Each member's term of office shall be that specified elsewhere in New York State Town Law and may be amended from time to time as further specified in Town Law.

(3) There shall also be one alternate member, to be appointed by resolution of the Town Board for a term of five years.

(4) The Zoning Board of Appeals Chairperson shall designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board, or when a member is absent from the meeting at which the Zoning Board of Appeals votes on an application. Prior to designating an alternate member to substitute during a member's absence, the Zoning Board of Appeals Chairperson must make a finding on the record that: (a) the member was notified of the scheduled meeting of the Zoning Board of Appeals; (b) the member was aware that the Zoning Board of Appeals would be voting on the particular application; and (c) the alternate member was present for all relevant public hearings held for the application.

(5) Members and alternate members shall maintain a minimum number of hours of training annually as set forth by resolution of the Town Board.

(6) Members and alternate members shall receive training from sources as set forth by resolution of the Town Board.

B. The Town Board shall, at its organizational meeting each year, appoint a Chairperson to the Zoning Board of Appeals. The term of office shall be one year.

[Amended 2-13-2012 by L.L. No. 1-2012]

C. The Zoning Board of Appeals shall, by resolution, establish and maintain such rules and regulations as are required by law and the provisions for the transaction of their business. A copy of said resolution shall be filed with the Town Clerk.

D. Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application for appeals under the provisions of this chapter, takes action to deny the application, said Board shall refuse to hold further hearings on the same or substantially similar application for appeal by the applicant, their successors or assigns, for a period of one year, except and unless the Board shall find and determine from the information supplied in the request for a rehearing that changed conditions have occurred relating to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing may be granted only upon a unanimous vote of all members of the Board then present.

*****MUNICIPAL HOME RULE LAW § 22*****

§ 220-95. Creation, appointment and organization of Planning Board.

A. The Town Board does hereby establish a Planning Board.

(1) The Town Board has adopted this chapter under the authority of § 271 of New York Town Law and § 10(1)(ii)(a)(1) of the New York Municipal Home Rule Law.

(2) The number of members of the Planning Board shall be decreased from seven to five members. The decrease in membership shall take effect on January 1, 1999.

(3) Members now in office shall continue to serve until expiration of their respective original terms. All new appointees and reappointments shall be appointed for a term of five years as provided in Town Law, § 271(4), except as provided for in Town Law, § 271(5).

(4) Any member's term of office that commences and terminates at a time other than the commencement and termination date of the terms of office for the majority of members shall be subject to a restricted term of office at the next date of appointment in order to achieve a uniform commencement and termination date of office for all members.

(5) There shall also be one alternate member, to be appointed by resolution of the Town Board for a term of five years.

(6) The Planning Board Chairperson shall designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board, or when a member is absent from the meeting at which the Planning Board votes on an application. Prior to designating an alternate member to substitute during a member's absence, the Planning Board Chairperson must make a finding on the record that: (a) the member was of the scheduled meeting of the Planning Board; (b) the member was aware that the Planning Board would be voting on the particular application; and (c) the alternate member was present for, or has familiarized himself with, all relevant public hearings held for the application.

(7) Members and alternate members shall maintain a minimum number of hours of training annually as set forth by resolution of the Town Board.

(8) Members and alternate members shall receive training from sources as set forth by resolution of the Town Board.

B. The Town Board shall, at its organizational meeting each year, appoint a Chairperson to the Planning Board. The term of office shall be one year.

[Amended 2-13-2012 by L.L. No. 1-2012]

C. The Planning Board shall, by resolution, establish and maintain such rules and regulations as are required by law and the provisions for the transaction of their business. A copy of said resolution shall be filed with the Town Clerk.

*****MUNICIPAL HOME RULE LAW § 22*****

§ 220-97. Planning Board office.

The Town's Development Office shall be the office of the Planning Board. The Town Clerk shall maintain the records for the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed with the Town Clerk as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official action.

§ 115-16. Residential structures.

A. Elevation. The following standards, in addition to the standards in § 115-14, Subsection A, Subdivision proposals, and Subsection B, Encroachments, and § 115-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least two (2) feet above the base flood level.

(2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated at least two (2) feet above the adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 115-6 (at least two feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 174-16. Conservation subdivisions.

A. Purpose. Pursuant to § 278 (cluster subdivisions) of New York Town Law, the purpose of these regulations is to achieve a balance between well-designed development, meaningful open space conservation and natural resource protection in the Town of Canandaigua by requiring conservation subdivisions instead of conventional subdivisions. Conservation subdivision (clustering) is intended to encourage development in the most appropriate locations on a subdivided parcel, to limit the impact of development on sensitive and/or significant environmental, agricultural, historical and archaeological resources, and to encourage development that enhances the Town's rural character, pattern and scale of settlement. The process for conservation subdivision of land shall be as follows:

- (1) Step 1: Determine applicability or exemption.
- (2) Step 2: preapplication sketch plan discussion (voluntary).
- (3) Step 3: Identify constrained (undevelopable) land.
- (4) Step 4: Calculate maximum permissible number of lots.
- (5) Step 5: Perform conservation analysis.
- (6) Step 6: preliminary plat review.
- (7) Step 7: final plat review.

B. Applicability.

(1) These regulations shall apply to all subdivisions of property in all zoning districts unless:

- (a) The proposed subdivision results in a total of four or fewer lots created from one parent parcel; and
- (b) The road frontage of the parent parcel will not be reduced by more than 50% ; and
- (c) No new public street or private roads will be created; and
- (d) No more than 10% of the parent parcel contains priority natural resources as identified in the Town's Natural Resources Inventory.

(2) Subdivision proposals that do not meet all four of the above criteria shall be subject to preliminary and final subdivision review, as described in this chapter, and the conservation subdivision process described herein.

(3) Subdivision proposals that meet all four of the above criteria may, at the discretion of the applicant, utilize the conventional subdivision process described in this chapter.

C. Standards for conservation subdivisions.

(1) Density calculation.

(a) The maximum number of residential dwellings allowed on a site shall be known as the base density. Appropriate lot sizes will be determined by the Planning Board after careful consideration of all site characteristics and development requirements.

[1] Constrained land includes:

[a] New York State or federally regulated wetlands.

[b] Watercourses as depicted in the Natural Resources Inventory.

[c]One-hundred-year floodplains.

[d]Slopes over 15%.

[e]Land which contains one or more acres of woodlands, up to a maximum of five acres in any one area of the site.

[f] Land which is occupied by existing public utility structures or improvements.

[g]Land encumbered by existing easements or in other ways made unavailable for development.

[h]Land which is within an existing drainage control area or right-of-way.

[i] Land which is otherwise found by the Planning Board to be unsuitable for development.

[2]Unconstrained acreage shall be determined by subtracting the acreage of constrained land from the total (gross) acreage.

[3]Base density shall be determined by dividing the unconstrained acreage by the allowable number of acres per unit required within the zoning district. All fractional units shall be rounded to the nearest whole unit.

(b)Pursuant to § 261-b of New York Town Law, the base density, as determined by Subsection **C(1)(a)** above, may be increased by up to 15% by the Town Board within areas served by public water and sewer, if permanent public access will be granted to the protected open space land and any associated improvements.

(c)The maximum base density determined under this section may be further reduced by the Planning Board as a result of the conservation analysis required in Subsection **C(2)**, Conservation analysis, below.

(d)The density permitted by this section shall not be further reduced as a result of the reservation of parkland during the subdivision process.

(2)Conservation analysis.

(a)As part of its preliminary plat submission [See Subsection **D(2)**, Permanent preservation by conservation easement, below.], an applicant shall prepare a conservation analysis, consisting of inventory maps, description of the land and an analysis of the conservation value of various site features. The conservation analysis shall show lands with conservation value, including but not limited to:

[1]Constrained land as defined in Subsection **C(1)(a)[1]** above;

[2]Open space and recreational resources described in the Town's Farmland and Open Space Conservation Plan and Lands of Conservation Interest Map;

[3]Buffer areas necessary for screening new development from adjoining parcels;

[4]Land exhibiting recreational, historic, ecological, water resource, scenic or other natural resource value, as shown within the Town's Natural Resources Inventory; and

[5]In districts where agriculture is a permitted use, the agricultural value of land as indicated by the presence of soils classified by the U.S. Department of Agriculture as prime, prime if drained, and soils of statewide importance.

(b)The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial preliminary plat review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.

(c)The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved preliminary plat, which shall show land to be permanently preserved by a conservation easement. The preliminary plat shall also show preferred locations for intensive development as well as acceptable locations for less dense development.

(d)The determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board. Whenever the Planning Board approves a preliminary plat with protected open space, it shall make written findings identifying the specific conservation values protected and the conservation findings supporting such protection. An application that does not include a complete conservation analysis sufficient for the Planning Board to make its conservation findings shall be considered incomplete.

(e)The preliminary plat shall show the following as land to be preserved by conservation easement:

[1]Constrained land identified by the analysis described in Subsection **C(1)** above; and

[2]Within residential districts, at least 40% of the land not preserved in Subsection **C(2)(e)[1]** above.

(f) If, based upon the conservation analysis, the Planning Board determines in its conservation findings that there is no reasonable basis for requiring a conservation subdivision, the Board may approve a conventional subdivision plat. In order for the Planning Board to make such a determination, the Planning Board must find at least one of the following:

[1]The land contains no substantial resources with conservation value.

[2]The total acreage under consideration is too small to preserve a substantial amount of land with conservation value (This criterion shall not be evaded by piecemeal subdivision of larger tracts.) or the lot configuration is unique and precludes preservation of a substantial amount of land with conservation value.

(g)In order to make the required showing under Subsection **C(2)(f)[1]** or **[2]** above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including, but not limited to, any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.

(h)Approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection by conservation easement of portions of the site identified in the conservation analysis.

(3)Types of development in a conservation subdivision. The allowable residential units may be developed as single-family or two-family dwellings. Within a conservation subdivision, a maximum of 25% of the residential units may be placed in two-family dwellings.

(4)Area and dimensional requirements.

(a)The minimum lot sizes permitted within conservation subdivisions shall be as follows:

[1]Within the R-1-20 District, where a site has both public water and sewer service, lot area shall not be smaller than 10,000 square feet.

[2]Within the R-1-30 District, where a site has both public water and sewer service, lot area shall not be smaller than 15,000 square feet.

[3]Within the SCR-1 District, where a site has both public water and sewer service, lot area shall not be smaller than 20,000 square feet.

[4]Within the MR, NC, RB-1, CC, I and LI Districts, where a site has both public water and sewer service, lot area shall not be smaller than 30,000 square feet.

[5]Within all areas not served by public water and sewer service, minimum lot sizes shall be determined by the Planning Board with regard to specific site characteristics and public health and safety concerns.

(b)Where a conservation subdivision abuts an existing residence in a residentially zoned area, a suitable buffer area shall be required by the Planning Board. This buffer shall be at least the same distance as the minimum rear or side yard setback in the district in which the abutting land is located.

(c)Where residential lots within a conservation subdivision abut agricultural operations, a suitable buffer area shall be required by the Planning Board. See also Town Code Chapter **107**, Farming, for the Town of Canandaigua Right-to-Farm Law.

(d)The applicant shall specify dimensional requirements for a proposed conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the final plat.

(5)Town Clerk notations on Official Zoning Map. In accordance with § 278 of Town Law, when the final plat is filed with the County Clerk and a copy of the final plat is filed with the Town Clerk, the Town Clerk shall make appropriate notations and references thereto on the Town Zoning Map. The Town Clerk shall make such notations and references as needed, but not less frequently than semiannually.

(6)Conservation subdivision of a portion of larger tract. The Planning Board may entertain an application for a subdivision of a portion of a parcel if a conservation analysis is provided for the entire parcel, and the approval to develop a portion of the parcel is not a basis for the applicant or successor in interest to subsequently request an exception under Subsection **C(2)(f)** for the remainder of the parcel.

(7)Conservation subdivision design guidelines.

(a)Conservation subdivisions shall be arranged in a manner that protects land of conservation value.

(b) Preserved open space shall not be included as a portion of a building lot and shall be contained in one or more separate open space lots. Preserved open space shall be arranged contiguously to the greatest extent practicable. Unpaved areas contained within cul-de-sac turnarounds shall not be counted within open space configurations.

(c)Except as specified herein, conservation subdivisions and development thereof shall be subject to all requirements applicable to subdivisions.

(d) The Town's Farmland and Open Space Conservation Plan, and specifically the Lands of Conservation Interest Map, shows the location of ridgelines in the Town. As part of

preliminary subdivision review, applicants shall provide written documentation of compliance with these guidelines, or any necessary variations therefrom.

D. Permanent open space. Open space set aside in a conservation subdivision shall be permanently preserved as required by this section. Any development permitted on land located in a conservation subdivision that is not protected as open space shall not compromise the conservation value of such open space land.

(1) Conservation value of open space. The open space protected pursuant to this section must have conservation value, which shall be determined in the course of the conservation analysis described in Subsection **C(2)** above.

(2) Permanent preservation by conservation easement.

(a) A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources or similar conservation purposes, pursuant to § 247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, and/or to a qualified not-for-profit conservation organization acceptable to the Town Board. Such conservation easement shall be approved by the Planning Board and is required for final plat approval. The Planning Board shall require that the conservation easement be enforceable by a recognized land trust or similar agency, or the homeowners' association, if the Town is not the holder of the conservation easement. The Planning Board shall confirm that the deed includes language regarding the conservation easement prior to final approval. The conservation easement shall be recorded in the County Clerk's office, and recording information (liber and page) shall be shown on the final plat prior to filing of the final plat in the County Clerk's office.

(b) The conservation easement shall prohibit residential, industrial or commercial use of open space land (except in connection with agriculture, forestry and passive recreation) and shall not be amendable to permit such use. Driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails and agricultural structures shall be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices as described by the New York State Department of Environmental Conservation's Division of Lands and Forests.

(c) A land management plan, approved by the Planning Board, shall be included in the conservation easement. The land management plan shall contain the following information:

[1] A baseline property condition report fully describing conditions of the property to be protected under the easement.

[2] Primary contact information for all parties responsible for holding, monitoring and enforcing the easement.

[3] A monitoring schedule and associated requirements.

[4] A recordkeeping procedure.

[5] Enforcement policy.

[a] The conservation easement shall provide that if the Town Board finds that the management plan has been violated in a manner that renders the condition of the land a public nuisance, the Town may, upon 30 days' written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed against the landowner, or, in the case of a homeowners' association, the owners of properties within

the development, and shall, if unpaid, become a tax lien on such property or properties.

[b] The conservation easement shall provide that if the Town's Code Enforcement Officer finds that the conservation easement or management plan has been violated in any way, the owner of the property and any persons or entities contributing to said violation shall be subject to the penalties specified for Zoning Code Violations in Town Code § 220-114, § 220-115, and § 220-99.

[6] An amendment procedure.

[7] For easements not held by the Town, a policy regarding dissolution of the easement-holding party.

(d) The Town's Code Enforcement Officer shall have authority to enforce any conservation easement in the Town regardless of whether said conservation easement has been granted to the Town. Enforcement of conservation easements by the Town's Code Enforcement Officer shall be pursuant to the provisions of Town Code § 220-99(D).

(3) Notations of final plat. Preserved open space land shall be clearly delineated and labeled on the subdivision final plat as to its use, ownership, management, method of preservation and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The final plat shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement required by the section and shall include deed recording information in the County Clerk's office for the conservation easement.

(a) Ownership of open space land. Open space land may be owned:

[1] In common by a homeowners' association (HOA); or

[2] Offered for dedication to Town, county or state government; or

[3] Transferred to a not-for-profit conservation organization acceptable to the Planning Board; or

[4] Held in private ownership; or

[5] Held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.

(b) If the land is owned in common by a HOA, such HOA shall be established in accordance with the following:

[1] The HOA application must be submitted to the New York State Attorney General's office before the approved subdivision final plat is signed and must comply with all applicable provisions of the General Business Law. The HOA must be approved by the New York State Attorney General's office prior to issuance of the first certificate of occupancy from the Code Enforcement Officer.

[2] Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance and maintenance of common open space, private roads and other common facilities.

[3] The HOA must be responsible for liability insurance, property taxes and the maintenance of recreational and other facilities and private roads.

[4] Property owners must pay their pro rata share of the costs in Subsection **D(3)(b)[2]** above, and the assessment levied by the HOA must be able to become a lien on the property.

[5] The HOA must be able to adjust the assessment to meet changed needs.

[6] The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

[7] Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.

[8] The Town's Attorney shall find that the HOA documents presented satisfy the conditions in Subsection **D(3)(b)[1]** through **[7]** above and such other conditions as the Planning Board shall deem necessary.

E. Conservation subdivision procedures. In addition to all other requirements applicable to conventional two-stage subdivision review, the following shall apply to conservation subdivisions:

(1) Sketch plan. Applicants are encouraged to request a sketch plan discussion with the Planning Board prior to submission of a preliminary application.

(a) In addition to requirements specified in Town Code § **174-9**, a sketch plan for conservation subdivision shall show the approximate area of the project considered to be constrained lands (wetlands, floodplains, steep slopes, etc.) and the area to be classified as developable lands.

(2) Preliminary subdivision review. In addition to information required pursuant to Town Code § **174-13**, the preliminary subdivision application for a conservation subdivision shall contain the following:

(a) A density calculation, as described in Subsection **C(2)** above.

(b) A conservation analysis as described in Subsection **C(3)** above, including a proposed conservation analysis map.

(c) A schematic ("bubble") diagram showing which areas on the parcel would be developed and where land would be protected as permanent open space by a conservation easement.

(3) Final subdivision review. In addition to information required pursuant to Town Code § **174-14**, the final subdivision application for a conservation subdivision shall contain the following:

(a) All the materials required for approval as provided herein, unless waived by the Planning Board.

(b) Proposed conservation easement(s) for the protection of permanent open space land.

(c) A final land management plan for the permanent open space areas, to be incorporated into the conservation easement and made enforceable by the Town.

(d) Other submission requirements as specified by the Planning Board.

§96-5 – CANANDAIGUA LAKE UNIFORM DOCKING AND MOORING

MEAN LOW AND HIGH WATER LEVEL

The approximate average low water level or high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Office of General Services, the mean low water level for Canandaigua Lake is 686.60 feet above mean sea level (National Geodetic Vertical Datum of 1929). According to the New York State Department of Environmental Conservation, Division of Environmental Permits, the mean high water level is 689.40 feet above mean sea level (National Geodetic Vertical Datum of 1929). These heights are measured above mean sea level.

§ 79-20 Prohibition of Hunting on Town Property

- A. Prohibition. There shall be no hunting on any property owned or operated by the Town of Canandaigua.
- B. Enforcement Officers. In addition to any law enforcement officer of the State of New York or County of Ontario, the Town's Code Enforcement Officers shall have authority to enforce the provisions of this Section.
- C. Penalties for Offenses. In addition to any penalties provided in New York State Law, any person or persons found in violation of this Section shall be subject to a fine of up to \$1,000.00.

§ 152-6. Park use regulations.

The following regulations are hereby established to govern the use of park facilities and buildings:

A. Park hours, except for unusual and unforeseen emergencies, and activities at Onanda Park not regulated by the State Environmental Conservation Law and special events or programming, shall be established by the Town Parks and Recreation Committee, subject to approval by the Town Board;

B. Park hours of operation at Onanda Park, the West Lake Road Schoolhouse Park, Leonard R. Pierce Park, Outhouse Park and Firehall Park shall be from sunrise to sunset, unless otherwise designated by the Town Board;

[Amended 6-17-2008 by L.L. No. 2-2008]

C. The consumption of alcoholic beverages, including beer and wine and the bringing of such items into a park is not allowed;

D. No pets or domestic animals may be allowed at any Town owned or operated park, with the only exception being the upland portion of Onanda Park and Firehouse Park where said pet or domestic animal shall be:

(1) Under the full control by the owner, including the owner being responsible for the picking up of the pets or domestic animal's fecal matter; and

(2) Restrained by means of a secure leash or lead in the manner set forth in Chapter **79** of the Town Code; or

(3) Confined to an enclosure, such as a cage or motor vehicle, in such manner that the pet or domestic animal may not roam freely upon public or private lands.

E. Fires are permitted in designated grills only which have been provided by the park;

F. No firearms or weapons of any variety including air rifles, slingshots, splat balls or similar weapons are permitted in any Town Park;

G. There is no hunting allowed on any Town Parkland, or on any other land owned or operated by the Town;

H. Legal fish cleaning/scaling knives may be used on park property only while fishing;

I. Smoking is not permitted in any building, including rental cabins. Smoking is permitted in outdoor areas;

J. Excessive noise is prohibited. This includes yelling, musical instruments, radios, televisions and other electronic devices;

K. Campers, trailers and RV units are not permitted in any Town park;

L. Tents may be used upon permission of the Director of Parks and Recreation on the upland portion of Onanda Park;

M. Parking at any park is permitted only in designated areas;

N. Boat launching, at Onanda Park, is only permitted between November 15 and April 15, in accordance with the Winter Boat Launch Operating Procedures adopted by the Town Board and approved by the Regional Director of the New York State Department of Environmental Conservation, and as said agreement may be amended from time to time. Copies of this agreement are on file in the Office of the Town Clerk and the Onanda Park Office;

O. Launching of nonmotorized vehicle top canoes, kayaks and recreational sculling vessels at Onanda Park, is permitted except when conditions on the lake prohibit the Ontario County Sheriff's boat from launching;

[Amended 7-7-2009 by L.L. No. 1-2009]

P. Launching of motorized fishing boats at Onanda Park is permitted only from November 15 of any given year to April 15 of the next year and when access to the lake from the New York State Boat Launch located at the north end of the lake is unavailable;

[Amended 7-7-2009 by L.L. No. 1-2009]

Q. Launching of all motorized fishing boats at Onanda Park shall only be from the boat ramp into the waters of Canandaigua Lake;

[Amended 7-7-2009 by L.L. No. 1-2009]

R. Launching of nonmotorized, vehicle-top canoes, kayaks or recreational sculling vessels shall be permitted only from within the designated portion of the shoreline at Onanda Park located between the boat ramp and the fishing dock;

[Amended 7-7-2009 by L.L. No. 1-2009]

S. No motorized boats, nonmotorized, vehicle-top canoes, kayaks or recreational sculling vessels shall be allowed within the delineated swimming area, nor will they be allowed to interfere with the line of sight between the lifeguard chairs and people swimming in the designated swim area at Onanda Park;

[Amended 7-7-2009 by L.L. No. 1-2009]

T. Launching and loading at Onanda Park will be limited to park patrons during the posted park hours of operation, sunrise to sunset year round;

[Amended 7-7-2009 by L.L. No. 1-2009]

U. No organized, multiboat event(s) for kayaking, canoeing or recreational sculling vessels will be allowed without permission from the Town Board;

[Amended 7-7-2009 by L.L. No. 1-2009; 12-5-2011 by L.L. No. 11-2011]

V. Unloading, loading and/or the launching of nonmotorized, vehicle-top canoes, kayaks and recreational sculling vessels shall only be permitted through the Onanda Park gatehouse entrance at West Lake Road (County Road 16);

[Amended 7-7-2009 by L.L. No. 1-2009]

W. All equipment for boats, nonmotorized, vehicle-top canoes, kayaks and recreational sculling vessels shall be stored either on top of or inside of vehicles when not in use. All nonmotorized, vehicle-top canoes, kayaks, or recreational sculling vessels are to be hand carried or transported by a small carrier device. In no event shall small carrier devices be allowed to be stored on the lakeside portion of Onanda Park while the nonmotorized, vehicle-top canoe, kayak or recreational sculling vessel is being used;

[Amended 7-7-2009 by L.L. No. 1-2009]

X. Nonmotorized, vehicle-top canoes, kayaks and recreational sculling vessels and associated equipment used in conjunction with cabin rentals shall be stored beside the cabin, away from the cabin entrance and behind the front of the cabin when not in use;

[Amended 7-7-2009 by L.L. No. 1-2009]

Y. The fee for launching nonmotorized, vehicle-top canoes, kayaks and recreational sculling vessels shall be included in the daily entrance fee or in the fee of a season pass. Persons renting cabins will be permitted to bring up to two nonmotorized, vehicle-top canoes or kayaks or recreational sculling vessels to the park for their use during their stay at Onanda Park without having to pay a daily launch fee;

[Amended 7-7-2009 by L.L. No. 1-2009]

Z. Persons not renting cabins at Onanda Park shall not leave their nonmotorized, vehicle-top canoe, kayak, or recreational sculling vessel overnight at Onanda Park;

[Amended 7-7-2009 by L.L. No. 1-2009]

AA. No vehicle will be permitted to trailer nonmotorized, vehicle-top canoes, kayaks, or recreational sculling vessels into Onanda Park;

[Amended 7-7-2009 by L.L. No. 1-2009]

BB. Consistent with New York State boating regulations, no minor child shall be allowed to use a nonmotorized, vehicle-top canoe, kayak, or recreational sculling vessel unless accompanied at all times by an adult;

[Amended 7-7-2009 by L.L. No. 1-2009]

CC. Docking of boats, nonmotorized, vehicle-top canoes, kayaks, or recreational sculling vessels at Onanda Park and the West Lake Road Schoolhouse Park is not permitted at any time, except in an emergency situation;

[Amended 7-7-2009 by L.L. No. 1-2009]

DD. Mooring of boats at Onanda Park and the West Lake Road Schoolhouse Park is not permitted within 100 feet of the shoreline;

[Added 7-7-2009 by L.L. No. 1-2009]

EE. No fireworks are permitted on Town park property;

[Added 7-7-2009 by L.L. No. 1-2009]

FF. Children 10 years of age or younger must be accompanied at all times by an adult at any Town park;

[Added 7-7-2009 by L.L. No. 1-2009]

GG. Entry into the lake is permitted only within the designated swimming areas at Onanda Park and West Lake Road Schoolhouse Park and only when a lifeguard is on duty;

[Added 7-7-2009 by L.L. No. 1-2009]

HH. No entry is permitted into Onanda Park or West Lake Road Schoolhouse Park from the waters of Canandaigua Lake;

[Added 7-7-2009 by L.L. No. 1-2009]

II. The lifeguard has the authority to create and enforce rules regarding the swimming area for the benefit and safety of all swimmers;

[Added 7-7-2009 by L.L. No. 1-2009]

JJ. Licensed fishermen may shoreline and/or stream fish at Onanda Park year-round except in the designated swim areas;

[Added 7-7-2009 by L.L. No. 1-2009]

KK. No shoreline fishing shall be allowed at the West Lake Road Schoolhouse Park;

[Added 7-7-2009 by L.L. No. 1-2009]

LL. No peddling, selling or hawking is allowed without prior authorization by the Town Board;

[Added 7-7-2009 by L.L. No. 1-2009]

MM. Pavilions and ball fields must be reserved in advance by contacting the Town Park Reservationist a minimum of seven days in advance of intended use. A fee to insure exclusive use for these facilities may be charged in accordance with the established parks and recreation fees;

[Added 7-7-2009 by L.L. No. 1-2009]

NN. The Director of Parks and Recreation shall authorize the use of the park for groups of 20 or more when it is found that:

[Added 7-7-2009 by L.L. No. 1-2009]

- (1) The proposed activity or use of the park will not unreasonably interfere with or detract from the enjoyment of the park by the general public;
- (2) The proposed activity or use of the park will not unreasonably interfere with or detract from promotion of the public health, welfare, safety and recreation;
- (3) The proposed activity or use is not reasonably anticipated to incite violence, crime, or disorderly conduct;
- (4) The proposed activity will not entail unusual, extraordinary, or burdensome expense upon the Town, or upon police operations;
- (5) The requested facilities have not been reserved for another use on the day and at the hour requested; and
- (6) The Director of Parks and Recreation shall refuse any activities that do not comply with this chapter.

OO. Liability insurance, in an amount determined by the Town Board, may be required for groups using the park facilities, buildings and grounds; and

[Added 7-7-2009 by L.L. No. 1-2009]

PP. The Town Board may amend these rules and regulations, from time to time, by formally amending the provisions of this chapter.

[Added 7-7-2009 by L.L. No. 1-2009]

§ 220-20. MR Multiple-Residence District.

A. Purpose. The purpose of the MR Multiple-Residence District is to permit, where appropriate, the construction and development of multiple-family residences in the Town. At the same time, the Town does not desire the large-scale development of these units to the extent that large areas of the Town would be devoted to such use and single-family residences would be incompatible. Accordingly, additional areas may be zoned as a MR District upon application for a specific proposal in accordance with the normal rezoning procedures. In reaching its decision, the Town Board shall consider the general criteria set forth in this chapter, the adopted Comprehensive Plan for the Town, and this statement of purpose. Areas proposed to be zoned MR shall be served by sanitary sewers and public water.

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

(1)Townhouses, in accordance with standards set forth in Subsection **D(1)**.

(2)Apartment Buildings in accordance with standards set forth in Subsection **D(2)**.

(3)Two-family dwelling unit structures.**C. Permitted accessory uses.**

(1)Normal accessory uses designed as an integral part of the multifamily development and scaled for the exclusive use of the development

(2)Private recreational facilities and areas.

(3)Swimming pool(s).

(4)Minor home occupations, as defined in Chapter 1, Article II.

(5)Signs in compliance with § 220-84 of this chapter.

D. Dimensional requirements and design standards. The dimensional requirements for this district are specified in Schedule I

Editor's Note: Schedule I is included at the end of this chapter.

of this chapter. In addition to the dimensional requirements set forth in Schedule I, the following site design standards shall be applicable to all townhouse dwelling unit and multiple-family dwelling unit developments:

(1)Townhouse Development site design standards.

(a)The minimum area lot size for a townhouse development shall not be less than three acres.

(b)Density. Overall site density shall not exceed eight dwelling units per gross acre, and not more than eight dwelling units shall be allowed on any one acre of land.

(c)Individual dwelling unit lot criteria.

[1]The minimum lot area for each townhouse dwelling unit shall be 3,500 square feet.

[2]The minimum front setback shall be 25 feet.

[3]The minimum lot width at the front building line shall be 25 feet for a two-story townhouse unit.

[4]The minimum lot width at the front building line shall be 35 feet for a single-story townhouse unit.

[5]The minimum rear setback shall be 25 feet.

[6]The maximum lot coverage shall be 65%.

[7]The minimum lot depth shall be 140 feet.

[8]There shall be no accessory structures allowed.

[9]There shall be no common off-street parking areas allowed.

[10]Each townhouse dwelling unit shall have a minimum of one one-car garage.

[11]Where garages are accessed from the rear portion of the structure, the front building line shall continue to be the portion facing the street. In these instances, the minimum front setback shall be 10 feet.

[12]There shall be adequately sized common storage areas provided as part of each townhouse development site for the storage of boats, trailers, recreational vehicles and other personal vehicles. Each storage area shall be blacktopped, buffered by landscaping and maintained. No unregistered vehicle shall be allowed to remain in a common storage area. The minimum size for each common storage area shall be determined by the Planning Board as part of site plan approval. In the event a common storage area is not found to be adequately sized, either the landowner or the homeowners' association shall be responsible for providing additional area to meet need. This storage area shall not be used for off-street parking of vehicles.

[13] There shall be an adequately sized bulk storage area provided for each Townhouse Unit. The minimum size for such bulk storage area shall be determined by the Planning Board as part of site plan approval. In the event a bulk storage area is not found to be adequately sized, the landowner or homeowners association shall be responsible for providing additional area to meet need.

(d) Minimum habitable floor area per dwelling unit shall be:

[1] Townhouse unit, three bedrooms: 1,000 square feet.

[2] Townhouse unit, two bedrooms: 850 square feet.

(e) No exterior wall shall exceed 50 feet in length unless there is a lateral offset of at least four feet in its alignment not less frequently than along each 50 feet of length of such exterior wall.

(f) Each Townhouse Building shall contain not more than eight dwelling units.

(g)Parking requirements. Requirements for off-street parking as provided in Article VIII of this chapter shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all dwelling units each parking area is intended to serve. In addition to the standards required in Article VIII, the following standards shall be met:

[1]A minimum of two paved parking spaces shall be provided for each dwelling unit, one of which shall be completely enclosed and covered.

[2]Appropriate screening shall be provided as to prevent glare from headlights.

(h)Each townhouse development shall have adequate pedestrian-separated facilities (sidewalks) connecting all townhouse dwelling units in the development.

(i) Each townhouse dwelling unit lot shall have a minimum of two trees to be planted prior to the issuance of a certificate of occupancy, or due to seasonal conditions, said trees are to be planted within six months of the issuance of a temporary certificate of occupancy.

(j) Each on-site stormwater facility shall be adequately landscaped.

(k)Each townhouse development shall either have mailboxes attached to the front of each structure, or a common mailbox area with adequate pull-off for both postal delivery vehicles and private vehicles. There shall otherwise be no mailboxes allowed along the side of a street.

(l) Each townhouse development shall contain streetlighting spaced at each intersection, at any cul-de-sac or dead-end street and any common parking area. Streetlighting shall be dark sky compliant as further regulated in § 220-77 of the Town Code.

(m)Each townhouse development street name shall be in compliance with the Ontario County 911 Street Naming Regulations.

(n) Where a townhouse development does not have public streets serving the townhouse dwelling units, then provisions shall be made with the local school district for the use of an acceptable off-street area to be used for the loading and unloading of school children. Each such area shall have a well-designed all-weather structure for use by students awaiting pickup or dropoff. Each such area shall be adequately illuminated in accordance with Town lighting standards.

(2) Apartments and Condominium site design standards.

(a) The minimum lot size for apartment building developmentsshall not be less than three acres.

(b) Density. Density shall not exceed eight dwelling units per gross acre.

(c) Floor areas. Minimum floor areas, exclusive of common areas such as halls, foyers and basement utility areas, shall be as follows:

[1] Apartment unit, efficiency: 450 square feet.

[2] Apartment unit, one-bedroom: 550 square feet.

[3] Apartment unit, two-bedroom: 700 square feet.

[4] Apartment unit, three-bedroom: 800 square feet.

[5] Apartment unit, four-bedroom: 900 square feet.

(d) Open space. There shall be at least 400 square feet of common open space exclusive of the required setback areas, buffer strips and parking areas which shall be designated for recreation, active and/or passive, for each apartment building.

(e) Unit distribution.

[1] No more than 30% of the total units within an apartment buildingdevelopment shall be efficiency units

[2] No more than 40% of the total units within an apartment building development shall be three or more bedroom units.

(f) Apartment Building Development Design Standards.. Each apartment building development siteshall be regulated as follows:

[1] Minimum distance between buildings shall be 50 feet.

[2] Direct line of sight visibility, from front to rear, from one building to another shall not be less than 100 feet.

[3] Every building shall have a minimum setback of 25 feet from all interior roads, driveways and parking areas.

[4] A strip of land around each apartment building, at least six feet in width, shall be kept completely open except for foundation plantings of less than six feet in height.

[5] Courtyards bounded on three sides by the wings of a single building, or by the walls of separate buildings, shall have a minimum court width of two feet for each one foot in height of the tallest adjacent building.

[6] No exterior wall shall exceed 100 feet in length unless there is a lateral offset of at least eight feet in its alignment not less frequently than along each 100 feet of length of such exterior wall.

[7] All stairways to the second floor or higher shall be located inside the building.

(g) Access to public roads.

[1] All apartment building developments shall have direct access to a public road.

[2] Where there are 12 or more dwelling units in an apartment building development, access from the common parking area(s) to the public road must be provided by either a private driveway or a road dedicated to the Town by the developer.

[3] Where there are 50 or more dwelling units in an apartment building development, the Town Planning Board may require an additional access, to that required above, to a public road as a condition of site plan approval.

[4] In no event shall the Town Planning Board allow more than 150 units to be served by one access to a public road.

(h) Services.

[1] Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.

[2] There shall be a minimum common storage area in each building for bicycles and similar types of equipment of 40 square feet in area, a minimum of five feet in height and not less than four feet in width per each dwelling unit.

[3] Within each building there shall be sufficient laundry, drying and other utility areas.

[4] Garbage storage areas shall be provided for each building. Such facilities shall be located with a view both to convenience and to minimizing the detrimental

effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls or shrubbery of at least six feet in height around the perimeter. Fencing and walls shall be not more than 50% open on the vertical surface.

[5] There shall be an adequately sized bulk storage area provided for each apartment building. The minimum size for such bulk storage area shall be determined by the Planning Board as part of site plan approval. In the event a bulk storage area is not found to be adequately sized, the landowner shall be responsible for providing additional area to meet need.

(i) Utilities.

[1] All public utilities, electric, gas, cable television and telephone lines shall be installed underground.

[2] An adequate supply of public water shall be provided to all dwelling units.

[3] All dwelling units shall be connected to public sewers.

E. Special permitted uses. The following uses may be permitted consistent with the provisions of Article VI, provided that a special use permit is issued by the Town Planning Board:

(1) Essential services, public utilities substations and uses, excluding power plants or repair yards and warehouses or uses similar in nature.

(2) Public uses.

§ 174-32. Sureties.

A. Provisions of this section are administered as provided for in New York State Town Law § 277, as amended.

B. In compliance with New York State Town Law Article 16, § 277, Part 9, as may be amended, surety may be required by the Planning Board as a condition of site plan or subdivision approval in order to assure proper installation of proposed improvements, including but not limited to utilities, drainage facilities and roads.

C. Sureties shall be in amounts as approved by the Town Engineer or the Town Code Enforcement Officer and shall include costs, including:

(1) Estimated construction cost of all required improvements;

(2) A minimum contingency factor of 10%;

(3) A minimum of 6% for engineering and construction observation charges based on the project complexity and construction schedule;

(4) Installation of street signs and surveyor's monuments;

(5) Mapping; and

(6) Development of record drawings of installed facilities.

D. The form of the sureties shall comply with New York State Town Law and shall be approved by the Town Board Attorney.

E. After approval by the Town Engineer and Town Board Attorney, a complete description of the surety will then be provided to the Town Board who shall either accept or reject the surety.

F. Accepted sureties will be filed with the Town prior to the issuance of building permits.

G. Inspection. All improvements covered under a performance surety must be inspected during construction. Costs of the required inspections shall be estimated by the Town Engineer and will be borne by the developer and shall be included in the initial value of the surety.

(1) The inspection procedure is designed to determine compliance with the approved plans.

(2) For inspection purposes, the contractor will notify the Town when construction will be undertaken on proposed improvements. Reasonable notice is required.

(3) Inspections are the responsibility of the Town Engineer, Highway and Water Superintendent, Town of Farmington Water and Sewer Superintendent and/or Town of Canandaigua Code Enforcement Officer, and other agencies as required and appropriate.

H. Surety default and retention.

(1) If the required improvements are not completely installed within the period as may be fixed or extended by the Planning Board, the Town Board may declare the surety in default and collect the amount payable thereunder. Upon receipt of such amount, the Town shall cause to install such improvements as were covered by the surety and as commensurate with the extent of building development that has taken place in the subdivision, not exceeding in cost, however, the amount collected from the surety.

(2) If within one year's time from the certificate of occupancy, remedial or landscaping work is incomplete, the Town shall complete said work and deduct costs from the posted sureties.

(3) The soil and erosion sureties will be retained until all disturbed pervious areas are 80% covered with vegetative controls (grass), at which point the escrow shall be released to the applicant.

I. Release of sureties. Upon completion of required improvements, the applicant may request full or partial release of sureties filed with the Town.

(1) The process for a release of surety will be initiated when a written request for partial or total release is submitted to the Town Development Office for approval.

(2) The request will then be reviewed by appropriate Town Staff or the Town Engineer and compared with the inspection record.

(3) Development Office staff will then forward a recommendation regarding the request to the Planning Board for their formal consideration.

(4) Recommendations by the Planning Board for full or partial release of funds shall be forwarded to the Town's Fiscal Officer, who shall release the specified funds.

(5) Approval by the Town for authorized periodic payments is not to be construed as acceptance of the work completed to date.

(6) Retainage shall be released only after a maintenance bond has been accepted by the Town and subject improvements have been tested and found acceptable by the Town's representatives.

§ 220-21. RLD Residential Lake District.

A. Purpose. The purpose of the RLD Residential Lake District is to allow limited residential uses that protect the quality of Canandaigua Lake and the surrounding natural topography, including the shoreline, ridgelines, and scenic vistas of this unique and environmentally sensitive area.

B. Permitted principal uses.

- (1) One single-family dwelling per lot.
- (2) Public parks.
- (3) Public safety facilities.

C. Permitted accessory uses.

(1) One detached private garage no taller than 16 feet and one attached private garage may be permitted.

[Amended 5-20-2013 by L.L. No. 7-2013]

(2) One accessory building/structure, not to exceed 100 square feet in total area and 10 feet in height above average finished grade may also be permitted. Except as provided in Subsection **C(2)(c)** and **(d)** below, setback requirements for accessory buildings/structures are specified in Attachment 1, Zoning Schedule.

Editor's Note: Schedule I is included at the end of this chapter.

(a) If the principal building on a lakefront is located on the lake side portion of the lot, then the accessory building/structure may be permitted in the side yard of the principal building.

(b) If a lakefront lot is divided by a street and the principal building is located on the lake side portion of the lot, then the accessory building/structure may be permitted on the portion of the lot opposite the lake side. In this instance, the front setback shall not be less than 60 feet, the rear setback shall not be less than 10 feet, and the minimum side yard setback shall be 10 feet.

(c) If a lakefront lot is divided by a street and the principal building is not located on the lake side portion, then the accessory building/structure may be located in the rear yard of the principal building.

(d) If a lakefront lot is divided by a street and the principal building is not located on the lake side portion, then the accessory building/structure may be located on the lakeside portion and may contain a rest room, but only with public water and sewer service. In this instance, the front setback shall not be less than 10 feet, the rear setback shall not be less than 25 feet and the minimum side yard setback shall be 10 feet.

(e) There shall be no additions to an accessory building/structure such as, but not limited to, decks, porches and cantilevers.

(3) Seasonal storage, commencing no earlier than October 31 of any year and continuing no later than May 31 of the following year, of docks, hoists and buoys permitted to be used on the premises by the provisions of Chapter **96**, Canandaigua Lake Uniform Docking and Mooring.

(4) Hot tubs.

(a)Definitions. As used in this section, the term "hot tub" shall have the meaning set forth in Chapter 1, Article II.

(b)Installation. No hot tub shall be installed unless a building permit shall have been issued in accordance with the New York State Uniform Fire Prevention and Building Code

Editor's Note: See Executive Law § 370 et seq.

and the provisions of the Town Code, general requirements. With the exception of Subsection C(5)(a)and (b), every hot tub shall conform to the provisions set forth for swimming pools in this chapter.

(c)No permit shall be issued for such hot tub unless it is shown that the proposed drainage for such hot tub shall not drain directly to neighboring properties or Canandaigua Lake.

(5)One in-ground swimming pool is allowed for each lot. In addition, each in-ground swimming pool in the RLD:

(a)Shall be located only within the side yard of a lot or the rear yard of the lot if not adjoining Canandaigua Lake.

(b)Shall not be located in the front yard of a lot or in the rear yard of a lot where said rear yard adjoins Canandaigua Lake.

(c)Shall be included as part of lot coverage as measured by the water surface and all adjoining impervious surfaces.

(d)Shall meet the setback requirements for an accessory building/structure within the RLD.

D. Dimensional requirements. The dimensional requirements for this district are specified in Schedule I, which is made a part of this chapter. However, pre-existing nonconforming lots that are less than 20,000 square feet shall be subject to the following setback requirements:

(3) Lots less than 10,000 square feet

a. Principal Structures

i. Front setback shall be 50 ft

ii. Rear setback shall be 30 ft

iii. Side setbacks shall be 5 ft

b. Accessory Structures

i. Rear setback shall be 15 ft

ii. Side setbacks shall be 5 ft

c. Maximum Building Coverage on lot 25%

d. Maximum Lot Coverage 40%

i.

(4) Lots more than 10,000 square feet but less than 20,000 square feet

a. Principal Structures

i. Front setback shall be 55 ft

ii. Rear setback shall be 30 ft

iii. Side setbacks shall be 9 ft

b. Accessory Structures

i. Rear setback shall be 15 ft

ii. Side setbacks shall be 9 ft

c. Maximum Building Coverage on lot 20%

d. Maximum Lot Coverage 30%

e. Rear setbacks shall be measured from the High Water Mark.

E. Special permit uses.

(1)Essential services, public utility facilities or communications installations.

(2)Tourist home.

F. Special provisions subject to all development within the RLD Residential Lake District.

(1)No accessory buildings or tennis courts shall be constructed within rear yards adjoining Canandaigua Lake.

(2)Erosion/sedimentation control measures shall be used before, during and after construction until ground cover is reestablished as specified in Chapter **165** of the Town of Canandaigua Code, Soil Erosion and Sedimentation Control.

(3)All boat docking, mooring and other related improvements in or on the waters of Canandaigua Lake are governed by Chapter **96** of Town Code.

§ 1-17 Definitions

APARTMENT

A dwelling unit that is intended to be leased or rented. This shall not be deemed to include a motel, hotel, boarding house or travel trailer.

[Amended 6-28-2010 by L.L. No. 3-2010]**APARTMENT BUILDING**

A building arranged, intended or designed to provide three or more apartments or condominiums, independent of each other, but having common hallways and entrances.

APARTMENT BUILDING DEVELOPMENT

An Apartment Building or group of Apartment Buildings.

TOWNHOUSE BUILDING

A building containing three or more Townhouses.

TOWNHOUSE DEVELOPMENTS

A Townhouse Building or group of Townhouse Buildings.

BUILDING COVERAGE

The area of all building footprints on a lot divided by the lot area. This includes all principal and accessory buildings, covered breezeways, covered porches, covered cantilevered structures, and decks.

[Amended 7-25-2005 by L.L. No. 7-2005; 4-8-2013 by L.L. No. 2-2013]

LOT COVERAGE

The area of all structures on a lot divided by the lot area.

STRUCTURE

Anything constructed or erected which requires temporary or permanent support, placement or attachment to the ground, beneath the ground or to something having permanent location on the ground, including, but not limited to, gasoline and oil tanks, buildings, sheds, pools, decks, docks, manufactured homes, fences [excluding seasonal snow fence as further regulated in Chapter **220**, § **220-9K(9)** of the Town Code], signs, billboards, towers, antennas, satellite TV dishes, patios, sidewalks, driveways, and impervious or substantially impervious surfaces. The term does not include vegetative landscaping.

[Amended 7-25-2005 by L.L. No. 7-2005; 2-8-2007 by L.L. No. 1-2007; 4-8-2013 by L.L. No. 2-2013]

ACCESSORY STRUCTURE

A detached structure, but not including buildings, subordinate and incidental to the principal building or structure on the same lot, that contributes to the comfort, convenience, or necessity of the occupants of the principal building or structure and that is used for a purpose incidental to the use of the principal building or structure. Accessory structures include but are not limited to swimming pools, tennis courts, basketball courts, paddleball courts, patios, decks, generators, and fences.

[Added 4-8-2013 by L.L. No. 2-2013]

WADING POOL

A temporary pool intended for use by children with a maximum water depth of 24 inches.

[Amended 7-25-2005 by L.L. No. 7-2005]

VEHICLE STORAGE

The parking of a licensed vehicle for a period in excess of nine consecutive days, unless otherwise restricted. The parking of an unlicensed vehicle for any period of time, except as exempted herein. The incidental movement of a vehicle on or off the property shall not affect the calculation of the nine-day time period.

[Added 7-25-2005 by L.L. No. 8-2005]

NATURAL RESOURCES INVENTORY

Natural Resources Inventory shall mean the document adopted by resolution of the Canandaigua Town Board on December 19, 2011 entitled "Town of Canandaigua Natural Resources Inventory (NRI)" together with the maps attached thereto. Said report and maps

have an effective date of March 1, 2012. Copies of the NRI report and maps are available at the Town Clerk's Office.

TEMPORARY USE

A use which takes place for a set period of time that does not exceed 12 months and does not involve construction or alteration of any permanent structure.

[Amended 12-5-2011 by L.L. No. 11-2011]

STORAGE, BULK

A dedicated area for the storage of large items such as bicycles, baby carriages, patio furniture, and other recreational equipment that shall be a minimum of 30 square feet

WATER MARKS, MEAN LOW AND HIGH

See Chapter 96 for definition of this term.

[Added 7-25-2005 by L.L. No. 7-2005]