

Local Law Filing

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

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

County City Town Village

(Select one.)

of Canandaigua

Local Law No. 2 of the year 2015

A local law Amendments to Chapter 220 (Zoning) Section 220-33 (Mixed Use Overlay Districts)
(Insert Title)

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

County City Town Village

(Select one.)

of Canandaigua as follows:

See attached.

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

§1. Legislative Intent. The intent of this Local Law is to update, clarify, amend, and revise § 220-33 Mixed Use Overlay Districts of the Zoning Chapter of the Town of Canandaigua Town Code.

§2. 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.

G. 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.

§3. 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.

§4. Effective Date

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2015 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on March 16 2015, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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

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

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

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



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

Date: 3/27/15

(Seal)