

Local Law Filing

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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. 3 of the year 2015

A local law Amendments to Chapter 1 (General Provisions), Chapter 220 (Zoning), Chapter 79
(Insert Title)
(Animals), Chapter 174 (Subdivision of Land), and Chapter 115 (Flood Damage Prevention

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 the following chapters of the Town of Canandaigua Town Code: General Provisions (definitions), Zoning, Animals, 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:

§ 220-62.1. Special Use Permit for Commercial Speech Signs

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.

§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, which is a part of this chapter.
- (2) Driveway spacing and corner clearance requirements are specified in Schedule I-A, 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 spaces 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 § 220-94 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.

§6. 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.

§7. 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 or has familiarized himself with the record of such public hearings.
 - (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.

§8. 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 aware 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.

§9. 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 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.

§10. 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.

§11. 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.

§12. 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.

§13. 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;

§14. 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.

§15. 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, upon review, may 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.

§16. 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.

- (k) The following definition shall be added:

APARTMENT BUILDING DEVELOPMENT -- An Apartment Building or group of Apartment Buildings.

- (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.

- (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.

- (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.

- (r) The definition of WATER LEVELS, MEAN LOW AND HIGH shall be replaced in its entirety as follows:

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.

§17. 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.

§18. 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. 3 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 *(Name of Legislative Body)* provisions of law.

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

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

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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

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

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

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



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

Date: 3/27/15

(Seal)