



LAW OFFICES OF
CHRISTIAN M. NADLER

****Privileged and Confidential****

TO: Town of Canandaigua Town Board

FROM: Chris Nadler, Town Attorney

DATE: December 19, 2023

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

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

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

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

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

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

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

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

NADLER.

MEMO FOR ORDINANCE/TOWN BOARD

MAY 6, 2022

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

PURPOSE

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

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

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

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

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

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
HTTPS://DOS.NY.GOV

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

December 7, 2022

CANANDAIGUA TOWN CLERK

DEC 12 2022

RECEIVED

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

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

Dear Sir/Madam:

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

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

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



**Department
of State**

Town of Canandaigua

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

Established 1791

November 29, 2022

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

RE: Filing of Local Laws 9 and 10 of 2022

To Whom It May Concern:

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

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

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

Sincerely,



Jean Chrisman
Town Clerk

Encs.

Local Law Filing

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

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

County City Town Village
(Select one.)

of Canandaigua

Local Law No. 9 of the year 2022

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

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

County City Town Village
(Select one.)

of Canandaigua as follows:

See Attachment A

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

Attachment A
Local Law 9 of 2022

§ 220-31 Incentive Zoning District.

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

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

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

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

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

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

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

(1) Sketch plan requirements.

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

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

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

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

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

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

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

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

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

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

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

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) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(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) (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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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

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

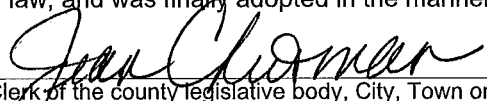
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

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

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

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

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


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

Date: 11/29/2022

(Seal)

Short Environmental Assessment Form

Part 1 - Project Information

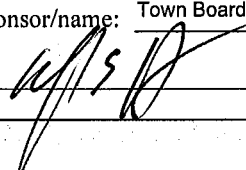
Instructions for Completing

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

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

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

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

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

PRINT FORM

Project:	Incentive Zoning Amendment
Date:	

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

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

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

Project: **Incentive Zoning Amend**

Date: _____

Short Environmental Assessment Form Part 3 Determination of Significance

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

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

PRINT FORM

Town of Canandaigua

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

Established 1791

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motion made by Councilman Fennelly, seconded by Councilwoman DeMay

3 Ayes: DeMay, Fennelly, Simpson

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

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

SEAL

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



Rebeca Doyle, Deputy Town Clerk

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

Corrected.

Here are the proofs of the legal notices that you have requested.
The notices will run on 11/08/22 in the Canandaigua Daily Messenger.

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

Thanks,

Kimberly Megrew
Public Notice Representative



Office: 844-678-3462

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

Hello

Attached are the correct ones .

Thank you

Rebeca Doyle

Deputy Town Clerk

Town of Canandaigua

5440 Route 5 & 20 West

Canandaigua NY 14424

*Office Hours:
Mon, Tues, Thur & Fri
8:00am-4:00pm
Wednesday
8:00am-5:30pm*

From: Gannett Legals Public Notices 5 (ganlegpubnotices5@gannett.com) <ganlegpubnotices5@gannett.com>
Sent: Monday, October 31, 2022 4:10 PM
To: rdoyle@townofcanandaigua.org
Subject: 7995935 & 7995988 RE: two public hearing notices

Here are the proofs of the legal notices that you have requested.
The notices will run on 11/08/22 in the Canandaigua Daily Messenger.

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

 Amberly Megrew
Public Notice Representative



Office: 844-678-3462


From: rdoyle@townofcanandaigua.org <rdoyle@townofcanandaigua.org>
Sent: Monday, October 31, 2022 1:36 PM
To: Messengerlegals-Messengerpostmedia <Messengerlegals@messengerpostmedia.com>
Subject: two public hearing notices

Hello

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

Thank you

Rebeca Doyle

 *Deputy Town Clerk
Town of Canandaigua*

5440 Route 5 & 20 West

Canandaigua NY 14424

585-394-1120 Ext 2226

Office Hours:

Mon, Tues, Thur & Fri

8:00am-4:00pm

Wednesday

8:00am-5:30pm



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

Order Confirmation

Not an Invoice

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

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

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

Print

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

Total Order Confirmation

\$39.44

Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua, NY 14424
(585) 394-1120

Fax: (585) 394-9476
Established 1789

PUBLIC HEARING NOTICE

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

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

Town of Canandaigua

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

Established 1791

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

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

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

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

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

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

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

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

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

Motion made by Councilman Fennelly, seconded by Councilwoman DeMay

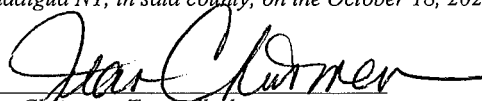
4 Ayes: DeMay, Fennelly, Rudolph, Simpson

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

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

SEAL

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


Jean Chrisman, Town Clerk