



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.

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

August 31, 2022

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

CANANDAIGUA TOWN CLERK

SEP 13 2022

RECEIVED

Christman

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

Dear Sir/Madam:

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

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

#6 = Agricultural Protection
Overlay District

#7 = Agricultural Advisory
Committee



Department
of State

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

(585) 394-1120

Fax: (585) 394-9476

Established 1791

August 18, 2022

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

RE: Filing of Local Law 6 and 7 of 2022

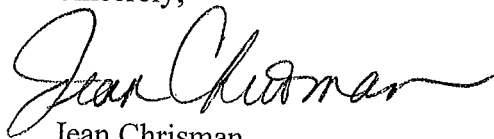
To Whom It May Concern:

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

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

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

Sincerely,



Jean Chrisman
Town Clerk

Encs.

Local Law Filing

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

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

County City Town Village
(Select one.)

of Canandaigua

Local Law No. 6 of the year 2022

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

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

County City Town Village
(Select one.)

of Canandaigua as follows:

See Attachment A

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

Town of Canandaigua

LL 7 of 2022

ATTACHMENT A

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

§220-33.2 Agricultural Protection Overlay District

§ 220- 33.2.1 Intent.

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

§ 220- 33.2.2 Agricultural Protection Overlay District.

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

§ 220- 33.2.3 Purpose; effect on inconsistent provisions.

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

§ 220-33.2.4 Right to engage in agricultural practices.

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

§ 220-33.2.5 New infrastructure improvements.

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

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

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

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

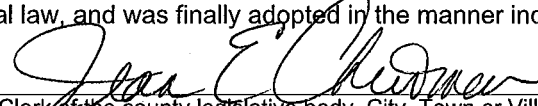
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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: 8/18/2022

(Seal)

Town of Canandaigua

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

Established 1791

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motion made by Councilwoman Rudolph, seconded by Councilman Fennelly

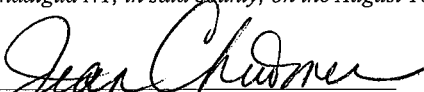
4 Ayes: DeMay, Fennelly, Rudolph, Simpson

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

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

SEAL

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


Jean Chrisman, Town Clerk

LOCALiQ

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

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

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

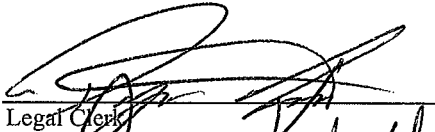
STATE OF WISCONSIN, COUNTY OF BROWN

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

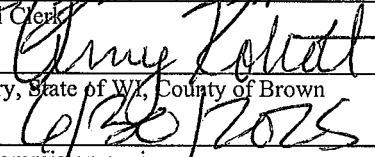
08/05/2022

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

Sworn to and subscribed before on 08/05/2022



Legal Clerk



Notary, State of WI, County of Brown

My commission expires

Publication Cost: \$36.78

Order No: 7613528

of Copies:

Customer No: 789748

-1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

AMY KOKOTT
Notary Public
State of Wisconsin

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

Aug 5
7613528

Short Environmental Assessment Form

Part 1 - Project Information

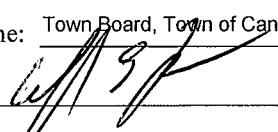
Instructions for Completing

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

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

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

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? 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?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? 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"/>	
	<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	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Town Board, Town of Canandaigua</u> Date: _____		
Signature: <u></u> Title: <u>Town Manager</u>		

Project: Ag Overlay
 Date: 8/23/22

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

Part 2 is to be completed by the Lead Agency.

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

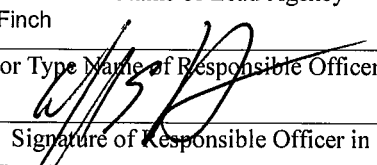
	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
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: Ag Overlay

Date: _____

Short Environmental Assessment Form Part 3 Determination of Significance

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

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

PRINT FORM

Town of Canandaigua

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

Established 1791

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

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

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

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

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

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

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

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

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

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

Motion made by Councilwoman DeMay, seconded by Councilman Fennelly

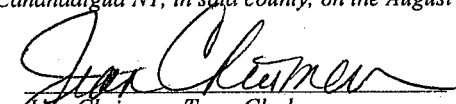
4 Ayes: DeMay, Fennelly, Rudolph, Simpson

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

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

SEAL

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


Jean Chrisman, Town Clerk