

# 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. 12 of the year 2017

A local law Amending Chapter 220 Zoning by Adding Section 8 Steep Slope Protection Law and  
(Insert Title)  
Amending Chapter 1 General Provision Section 17 Definitions

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.)

**SECTION ONE. Legislative Intent.** The legislative intent of the Town Board of the Town of Canandaigua in enacting the following amendments to Town Code is to preserve and protect the sensitive environment of steep slope areas in the Town of Canandaigua, and to regulate land use within these areas in a manner which protects the public interest by minimizing detrimental effects of land disturbance and development to steep slope areas.

**SECTION TWO.** The following section shall be added to Town of Canandaigua Town Code Chapter 220, immediately after §220-7 (Applicability of Regulations), and immediately preceding §220-9 (Regulations Applicable to All Districts):

**§ 220-8.1 Town of Canandaigua Steep Slope Protection Law**

**§ 220-8.1 Steep Slope Protection Law**

**A. PURPOSE:** The purpose of this Steep Slope Protection Law is to conserve the sensitive environment of steep slope areas, and to regulate land use within these areas in a manner which protects the public interest by minimizing detrimental effects of land disturbance and development to steep slopes by:

- (1) Providing for the reasonable use of steep slopes while ensuring development will not induce soil erosion, unreasonably alter the natural topography of the area, require excessive grading, increase slope instability, increase stormwater runoff, contaminate surface waters or create onsite sewage treatment problems.
- (2) Guarding against property damage and personal injury;
- (3) Minimizing the potential for erosion, slope failure, stream siltation, increased storm water runoff, flooding, contamination of surface waters; and protecting the water quality of Canandaigua Lake and other downstream bodies of water.
- (4) Conserving existing steep slope woodlands for air and water quality benefits and the preservation of wildlife habitats.

**B. STEEP SLOPE PROTECTION AREAS (SSPA)**

- (1) The Steep Slope Protection Areas shall include all lands having slopes 15% or greater.
- (2) Steep Slope Protection Areas are further categorized as:
  - (a) Moderately Steep: 15% to <25% slope,
  - (b) Very Steep: 25% to < 40% slope, and
  - (c) Extremely Steep: 40% or greater slope.

**C. ACTIVITIES WITHIN A STEEP SLOPE PROTECTION AREA REQUIRING SITE PLAN REVIEW**

- (1) The following activities require site plan approval through the Town of Canandaigua Planning Board, pursuant to Section 220-64, when located in a Steep Slope Protection Area except where specifically exempt in Section 220-8.1(C)(2):
  - (a) **Zone A:** 500 square feet or greater of land disturbance within 2000 feet horizontal distance from the mean high water mark of Canandaigua Lake.
  - (b) **Zone B:** 500 square feet or greater of land disturbance within 100 feet horizontal distance from any open watercourse.
  - (c) **Zone C:** 2,000 square feet or greater of land disturbance occurring beyond the horizontal distance stipulations in Zones A and B above.
  - (d) **All Zones:** Any prohibited use or activity, as specified in Section 220-8.1(D) that would create a land disturbance of less than 500 square feet for Zones A and B and create a land disturbance of less than 2,000 square feet for Zone C.
- (2) The following activities are exempt from the site plan approval required for Steep Slope Protection Areas:
  - (a) Soil cultivation for agricultural purposes and home gardens.
- (3) All land disturbance that occurs on the Steep Slope Protection Area portion of the parcel within two (2) years shall be used to calculate the total area of land disturbance.

**D. PERMITTED AND PROHIBITED USES AND ACTIVITIES WITHIN A STEEP SLOPE PROTECTION AREA**

**(1) Moderately Steep Slopes (15% to < 25%)**

- (a) Permitted Uses and Activities on Moderately Steep Slopes (15% to < 25%): all permitted uses allowed in the underlying zoning district except for those uses and activities prohibited in Section 220-8.1(D)(1)(b) and not prohibited by any other Town Law are allowed within this slope category.
- (b) Prohibited Uses and Activities on Moderately Steep Slopes (15% to < 25%): The following uses and activities are specifically prohibited on Moderately Steep Slopes if the land disturbance is greater than the threshold for the applicable Zone as specified in 220-8.1(C)(1):

- [1] Removal of existing ground cover and root systems except when related to a permitted use.
- [2] Solid waste disposal, recycling uses, junkyards, or other similar outdoor storage use.
- [3] Installation of an accessory structure, except for driveways, that requires greater than 4,000 square feet of land disturbance within the Steep Slope Protection Area.

**(2) Very Steep Slopes (25% to < 40%)**

(a) Permitted Uses and Activities on Very Steep Slopes (25% to < 40%): The following uses and activities are permitted within this category provided that each use or activity is in compliance with the regulations of the underlying district and is not prohibited by any other Town Law.

- [1] One single-family residence with attached or detached garage.
- [2] One driveway to serve the residence and garage (Driveways must comply with the Town Private Driveways and Private Roads Law as well as the Town Site Design Criteria).
- [3] Trams and/or stairs as may be needed to access another elevation on the property.
- [4] Onsite wastewater treatment system. This must first be reviewed for location viability by local authorities, followed by design approval by the Watershed Inspector, DEC and/or the New York State Department of Health.
- [5] Utility transmission lines and aboveground utility line structures unless upon petition of a public utility corporation, the New York State Public Utility Commission shall, after public hearing, decide that the presence of such proposed lines or structures in question is not reasonably necessary for the convenience or welfare of the public.
- [6] New or expanded paths developed specifically for golf carts, ATV's or other similar small vehicles- maximum path width to be six feet.
- [7] Detached accessory structures.
- [8] Those uses and activities otherwise prohibited by Section 220-8.1(D)(2)(b) but whose land disturbance is less than the threshold for the applicable Zone as specified in 220-8.1(C)(1).

- (b) Prohibited Uses and Activities on Very Steep Slopes (25% to < 40%): If the land disturbance in this slope category is greater than the threshold for the applicable Zone as specified in 220-8.1(C)(1), the following uses and activities are specifically prohibited:

- [1] All items prohibited on Moderately Steep Slopes.
- [2] All terraced landscaping, with or without retaining walls, not directly required to construct items listed under Section 220-8.1(D)(2)(a).
- [3] Resource extraction uses.
- [4] Storm water retention basins.
- [5] Installation of an accessory structure that requires greater than **2,000** square feet of land disturbance on slopes 25% or more.

**(3) Extremely Steep Slopes of 40% or More**

- (a) Permitted Uses and Activities on Extremely Steep Slopes of 40% or More: The following uses and activities are permitted within this category provided that each use or activity is in compliance with the regulations of the underlying district and is not prohibited by any other Town Law:

- [1] The construction of new stairs and/or new tramways as required for access to an allowable building site, existing residence, elevation change on the property or to the water front for lakeside property.
- [2] Replacement of existing structures, stairs or tramways, all to be within the same footprint, that are currently on the property.
- [3] The construction of roadside parking via retaining wall system if approved by the Town/County Highway Department or the New York State Department of Transportation, whichever has jurisdiction.
- [4] Installation of structures, that requires land disturbance that is less than the threshold for the applicable Zone as specified in 220-8.1(C)(1).
- [5] Those uses and activities otherwise prohibited by Section 220-8.1(D)(3)(b) but whose land disturbance is less than the threshold for the applicable Zone as specified in 220-8.1(C)(1).

- (b) Prohibited Uses and Activities on Extremely Steep Slopes (40% or Greater): All uses or construction activities, other than those set forth in Section 220-8.1(D)(3)(a) that require land disturbance greater than the threshold for the applicable Zone as specified in 220-8.1(C)(1) are prohibited.

## E. GENERAL REGULATIONS

- (1) Any development proposed in a Steep Slope Protection Area shall be designed to work with the natural elements of the site, locating the proposed improvements in such a manner as to minimize land disturbance, cut and fill operations, tree removal, and alterations to natural drainage. The applicant must provide the Development Office with documentation that the improvements were designed to fit the existing natural elements of the site, rather than making the site fit the development goals of the landowner as part of the site plan review process. In any project with cut and fill operations, the applicant shall prove to the Planning Board that there was no other alternative to cut and fill to develop the site and that cut and fill has been minimized. The Town of Canandaigua Development Office will provide steep slope site illustration examples to applicants.
- (2) All single-family residential land-disturbing activities in Steep Slope Protection Areas, including but not limited to clearing, grading, excavation, building construction, construction of driveways and roads, cutting, and filling, shall be limited to the minimum Steep Slope Protection Area necessary to accommodate the proposed use or activity, and shall in no case be greater than 15,000 square feet of Steep Slope Protection Area disturbance per parcel, plus land necessary for driveway access, on-site wastewater treatment system, and storm water management facilities.
- (3) Changes to the natural elevation of a steep slope development site shall be minimized. Any changes to the natural elevation of the site shall meet the following criteria:
  - (a) The original, natural elevation of a Steep Slope Protection Area shall not be raised and/or lowered more than five feet on average across a contiguous 2,500 square foot area of grading and shall not exceed 10 feet in any location in the Steep Slope Protection Area.
  - (b) The natural elevation shall not be raised or lowered more than 3 feet within the required setback for structures. The setback distances are described in Chapter 220: Zoning, Schedule I.
  - (c) The finished slope of all cuts or fills for any site work in areas where only vegetation is proposed to prevent erosion shall not exceed a slope of one vertical to two horizontal (50% grade or 26.5 degrees of angle) without a retaining wall, stacked rock rip rap, or other similar structural stabilization.
  - (d) The natural elevation of the proposed driveway may exceed the requirements of 220-8.1(E)(3) as long as it is in compliance with the latest Town Site Design Criteria for driveways.
- (4) Any new or existing retaining wall higher than three feet above finished elevation incorporated into the proposed project design requires the evaluation of a New York

Professional Engineer as to its structural integrity and written direction and certification as to its use.

- (5) If total land disturbance exceeds 7,500 square feet and greater than 50% of land disturbance is within a Steep Slope Protection Area, then lot coverage for the entire site shall be reduced to 90% of the allowable lot coverage for the underlying zoning district.
- (6) If a permanent driveway cannot be legally built to serve the residence or other improvement, no temporary construction road/driveway may be permitted in Steep Slope Protection Areas.
- (7) All development projects that disturb greater than 10,000 square feet of Steep Slope Protection Areas in Zones A and B, and 20,000 square feet of Steep Slope Protection Areas in Zone C shall be required to provide for water quality treatment up to the (1) one year storm event. If disturbance is greater than 1 acre but less than 5 acres in the Steep Slope Protection Area, then water quantity control must also be provided following the Town's Site Design Criteria and the New York State Stormwater Management Design Manual.
- (8) From October 15 until April 1, disturbed land areas in Steep Slope Protection Areas that are not worked for three (3) days shall not be left bare or exposed. Approved temporary or permanent protective straw mulch and/or erosion control blankets shall cover these disturbed areas to provide stabilization. From April 1st until October 15th disturbed land areas in Steep Slope Protection Areas that are not worked for five (5) days shall not be left bare or exposed. Approved temporary or permanent seeding along with protective straw mulch and/or erosion control blankets must cover these disturbed areas. All seeding, straw mulching and erosion control blankets shall meet the installation methods and quantities as stated in the New York State Standards and Specifications for Erosion and Sediment Control.
- (9) Rolled Erosion Control products shall be used to temporarily stabilize slopes that are equal to or greater than 1:3 (vertical:horizontal).
- (10) Trees with a Diameter Breast Height (DBH) of 6 inches or greater within twenty (20) feet of the mean high water mark of Canandaigua Lake, within twenty (20) feet of the top of slope of the shoreline cliff area or within twenty (20) feet from the top and toe of a gully shall not be removed unless they are deemed unhealthy or a safety hazard by a certified arborist or equivalent. Enhancing lake views can be done through a combination of canopy reduction and selective thinning without substantial tree removal. Tree removal may be allowed in the gully zone for the purposes of traversing a gully via a bridge or culvert structure to access another portion of the property.
- (11) The Planning Board may approve modifications to these standards in Section 220-8.1(E) if the applicant can prove that such modifications would result in less total site disturbance and/or less change to the natural grade than would compliance with these

standards and that such modifications meet the intent of this local law to the greatest extent possible.

#### **F. BURDEN OF PROOF**

- (1) The applicant shall in all cases have the burden of proof of demonstrating that the proposed activity is fully consistent with the standards for approval set forth in Section 220-8.1.

#### **G. STEEP SLOPE PROTECTION AREA REVIEW PROCESS**

- (1) Steep Slope Protection Area Application: The Steep Slope Protection Area Review Process will follow the Town of Canandaigua Site Plan Regulations (Chapter 220 Article VII), in addition to the following criteria:

- (a) The Preliminary Site Plan and Final Site Plan shall include the following:

- [1] Documentation that the improvements were designed to comply with § 220-8.1 and have been designed to fit the existing natural elements of the site instead of altering the site to fit the development goals.
- [2] Contours of existing and proposed conditions at vertical intervals of no more than two feet.
- [3] Temporary roads, driveways, parking areas and pathways, including the widths and slopes of these features.
- [4] Location of all trees within the proposed project limits that are located in a Steep Slope Protection Area with a DBH of 6 inches or greater and which, if any, of these trees will be cut as part of this project.
- [5] An overlay of each steep slope category as defined in § 220-8.1(B)(2) of this local law for existing site conditions.
- [6] Location and description of all existing and proposed, open and closed, drainage features, to include roof drains, footing drains and retaining wall drains, with discharge points identified. Storm water calculations shall be provided for all existing and proposed culverts or changes to gullies. The applicant will need to document that each of these drainage features can convey the 25 year-one hour storm event.
- [7] The Planning Board may request cross-sectional profiles of the existing and proposed slopes for projects that disturb greater than 2,500 square feet of a Steep Slope Protection Area. The applicant is encouraged to submit 3 cross-sectional profiles of the existing and proposed slopes if the applicant proposes greater than 2,500 square



feet of disturbance in a Steep Slope Protection Area to expedite the review process.

- (2) The application shall be prepared in accordance with the New York State Standards and Specifications for Erosion and Sediment Control and the New York State Stormwater Management Design Manual.

**SECTION THREE.** The following definitions shall be added to Town of Canandaigua Town Code § 1-17:

**DIAMETER AT BREAST HEIGHT (DBH)** – The diameter of a tree trunk measured at a point four and a half (4.5) feet above ground level.

**EXTRACTION USE** - The removal of any soil, gravel, natural gas or other earth generated material from a property with the intent to sell or reuse. Site work performed via building permit in preparation for property improvements, where earth generated materials are removed off site incidental to construction activities, shall not be deemed an extractive use.

**FILLING**- Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses.

**GRADING** - The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

**GULLY** – A natural geologic formation that carries water during or immediately after storm events and has a 10-foot vertical rise or greater from the toe of slope to the top of the bank and whose banks have a greater than 50% slope.

**LAND DISTURBANCE** –all actions that expose bare soil including but not limited to removal of vegetation and root systems, land clearing and grubbing, grading, excavation, filling, demolition, and stockpiling, but does not include agricultural land uses. Land disturbance does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.

**ROLLED EROSION CONTROL PRODUCTS** - manufactured rolls of material used to protect slopes and/or waterways by resisting flow and aiding vegetation.

**SHORELINE CLIFF AREA** - slopes exceeding 100% (45 degrees) with a vertical height of 20 feet or greater measured from the first substantial toe of slope adjacent to Canandaigua Lake

**STABILIZED** - A condition where a ground surface that has suffered a land disturbance or been modified has received appropriate surface treatment, including structural cover or topsoil, seeding, mulching, geo-textile or erosion control matting (as applicable), to prevent erosion and sedimentation from occurring. In general, an area is considered “stabilized”

when vegetative cover has exceeded 80% density coverage over that disturbed area or straw mulch has been applied and maintained at a rate of 2 tons per acre.

**STEEP SLOPE** – Any area of land having a slope of 15% or greater as delineated on a map(s) prepared for the Town utilizing LiDAR or by a licensed surveyor. This definition does not apply to Chapter 96: Canandaigua Lake Uniform Docking and Mooring.

**STEEP SLOPE PROTECTION AREA (SSPA)** – Those areas of land having slopes 15% or greater.

**STORM WATER RUNOFF** - The portion of precipitation that flows overland as a result of rain or due to melted snow and ice.

**TREE**- a woody plant that at maturity is 13 feet or more in height, with a single trunk at least 3 inches in diameter at breast height, unbranched for at least several feet above ground and having a more or less definite crown (Little, 1979)

**TREE GIRDLING**- the removal or killing of a ring of bark around a tree stem so that the flow of carbohydrates from the crown to the roots is blocked.

**TREE POISONING**- using pesticides, including herbicides, for the killing of a tree.

**TREE FELLING**- The cutting down of a tree.

**TREE REMOVAL**- The intentional act of tree girdling, tree poisoning, or tree felling, or using any mechanical tool or heavy equipment to remove a tree from the ground.

**TOP OF SLOPE**- the first substantial slope change on the upper portion of the shoreline cliff area that decreases the slope below 100%.

**VEGETATIVE PROTECTION** - Stabilization of erosive or sediment producing areas by covering the soil with:

- Permanent seeding, producing long-term vegetative cover,
- Short-term seeding, producing temporary vegetative cover, or
- Sodding, which is the placement of cultivated sod onto prepared topsoil to promote rapid soil stabilization.

**SECTION FOUR.** The definition of WATERCOURSE in Town Code §1-17 shall be replaced in its entirety with the following:

**WATERCOURSE** – A stream, gully or other body of water identified either on the Town of Canandaigua Watercourse Map, which is available in the Town Development Office, or identified through site reconnaissance as part of Planning Board review. Review would consist of a watercourse that contains a discernible channel, bed, and/or banks, flows in a particular direction, and has a drainage area of 20 acres or greater at the downstream end of the parcel.

**SECTION FIVE. Severability.** If any clause, sentence, paragraph, section, or part of this local law or the application thereof to any person, firm, corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part of this local law or in its application to the person, individual, firm, corporation, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**SECTION SIX. 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. 12 of 2017 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on June 19 2017, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

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

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

**3. (Final adoption by referendum.)**

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

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

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

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

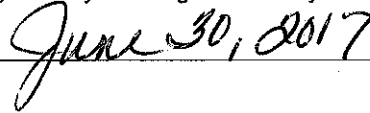
**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

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:



(Seal)