

Chapter 70

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Canton **07/08/97**.
Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board See Chapter 9.

Building construction See Chapter 23.

Junkyards See Chapter 35.

Subdivisions See Chapter 56.

ARTICLE I

General Provisions

§ 70-1. Title.

The title of this chapter is the "Zoning Law of the Town of Canton" and shall include this text and Zoning Map.

§ 70-2. Purpose.

The Objectives of the Zoning Law are to:

- A. Protect the open and natural character of the land.
- B. Provide for planned growth of agricultural, residential, commercial and industrial use of the land consistent with the economic and social needs of the community and its development policies.
- C. Preserve the town's natural resources and habitats.
- D. Encourage the use of alternate energy systems and protect solar and wind access.
- E. Promote the health, safety and general welfare of the town consistent with the objectives of New York State Town Law § 261 through 265 and Article 2, 10 of the General Municipal Rule Law.

§ 70-3. Conflict with other laws.

- A. Whenever the requirements of this chapter are at variance with the requirements of any lawfully adopted rules, regulations or ordinances, such as the New York State Uniform Fire Prevention and Building Code, the most restrictive or those imposing the highest standards shall govern.
- B. All applicants should review the current New York State Uniform Fire Prevention and Building Code for regulations applicable to their project.
- C. The most recently adopted New York State Rules & Regulations shall supersede.

§ 70-4. Fees.

Permit fees shall be collected and paid to the Town Clerk according to the fee structure in effect at the time of application. The present fee schedule is posted at the Town Clerk's Office.

§ 70-5. Penalties for offenses; injunctions.

Updated 11/14/13

- A. Violations of this chapter shall be subject to the provisions of the applicable law. Upon determination by the Zoning Officer that a violation of this chapter exists, he shall send written notice to the last known owner of record of the property, as determined by the assessment records, informing said owner of the violations of specific provisions of this chapter and stating that action is to be taken by said owner to remove such violation in twenty (20) days or time stated in §70-43c, or proceedings to compel compliance with this chapter will be instituted. Any violation of this chapter may also be enjoined pursuant to law.
- B. Excepting penalties prescribed in other sections of this local law, any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this chapter shall be guilty of an offense and, upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for a period of not more than fifteen (15) days, or both. Each week a violation is continued shall be deemed a separate offense.
- C. The town may obtain an action to restrain by injunction any violation of this chapter or any failure to comply with any of the provisions of this chapter.
- D. All violations of the Code of the Town of Canton are to be denominated as offenses and not misdemeanors for sentencing purposes. If the Town intends to make a violation of its Town statute a misdemeanor, said statute will specifically state that it is a misdemeanor.

§ 70-6. Noncomplying structures or uses.

Any building or structure erected or any use conducted without a zoning permit or certificate of compliance, where required, or not in conformity with the provisions of this chapter may be removed, closed or halted at once by the Code Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate town officer or employee.

ARTICLE II Word Usage and Definitions

§ 70-8. Word usage.

For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, trust, organization, partnership, company or corporation as well as an individual.
- B. Words used in the present tense include the future tense.
- C. The singular includes the plural.
- D. The words "will", "shall" and "must" are mandatory.
- E. The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied.
- F. The words he & she can refer to either he or she.

§ 70-9. Definitions.

Updated 6/13/16

Except as may be specifically defined within this Local Law, all terms or phrases shall be as defined in "**American Planners Dictionary**" for this Zoning Code. A copy is available in the Town Clerk's Office, the Code Enforcement Office, the Canton Free Library and from the Planning Board and the Zoning Board of Appeals.

- A. Small Wind Facilities. As used in this Local Law relative to the construction and operation of a Wind Energy Conversion System, the following terms shall have the meanings as indicated:
 - 1. EAF: Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.
 - 2. Residence: Any dwelling suitable for habitation existing in the Town of Canton on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, and shall include buildings such as hunting camps, seasonable residences, hotels, hospitals, motels,

dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes or correctional institutions.

3. SEQRA: The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.
 4. Sound Pressure Level: The level which equals or exceeds a stated percentage of time. An L10 - 50 dBA indicates that in any hour of the day, 50 dBA can be equaled or exceeded only 10% of the time or for six (6) minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11).
 5. Small Wind Energy Conversion System (Small WECS): A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversation electronics, which has a rated capacity of not more than 20 KW and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.
 6. Total Height: The height of the tower and the furthest vertical extension of the WECS.
 7. Wind Energy Conversion System (WECS): A machine that converts the kinetic energy in the wind into a usable form commonly known as a "wind turbine" or "windmill".
 8. Wind Energy Facility: Any wind energy conversion system, small wind energy conversion system or wind measurement tower, including all related infrastructure, electrical lines and substations, access road and accessory structures.
 9. Wind Measurement Tower: A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.
- B. Slaughterhouse. Any establishment primarily engaged in commercial abattoir operations and/or meat processing and packing operations.
- C. Institutional Use. A non or for profit educational facility, healthcare facility, nursing home, doctor or dentist office, museum, public or religious use (e.g. church, library, school) or a government owned or operated land use or structure used for public purpose.
- D. Agriculture. As defined by New York State Agriculture and Markets Law.

- E. Community Supported Agriculture. Community Supported Agriculture (CSA) is an alternative, locally-based socio-economic model of agriculture and food distribution. A CSA also refers to a particular network or association of individuals who have pledged to support one or more local farms, with growers and consumers sharing the risks and benefits of good production. CSAs shall consist of land used for cultivation of fruits, vegetables, plants, flowers or herbs by multiple users.

ARTICLE III Permits

§ 70-10. Permit required.

No use or structure shall be established or erected on land developed until a permit has been issued by the Code Enforcement Officer, who shall issue such permits in accordance with regulations in this chapter. Permit applications shall be obtained and filed with the Town Clerk.

§ 70-11. Conference with Planning board.

Pre-application conferences with the Town's Planning Board are encouraged for all applicants seeking special permits.

§ 70-12. Application procedure; required information.

Application must be made with the Town Clerk on forms approved by the Town. All information on the application form must be completed. In addition, the following information is also required to constitute a complete application:

- A. Map required. Two (2) copies of a property map shall be submitted with all applications. The map shall be either:
 - 1. Sketch map. A sketch map is required with all applications for one or two-family dwellings, their customary accessory uses or farm uses. The sketch map shall be drawn to approximate scale and show to the satisfaction of The Code Enforcement Officer the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway locations, natural watercourses, ponds, surface drainage patterns and location of existing or proposed easements.
 - 2. Site plan. A site plan is required with applications for all other uses. Requirements and procedures for site plan approval are in Article VII of this chapter.
- B. Approval of Water and Sewage Disposal Systems. The Code Enforcement Officer must approve the water supply and the sewage disposal system and plans for both must be submitted at the time of application. Applications lacking such information shall not be accepted.

- C. Evidence of property ownership or intent to purchase.
- D. Licenses. Any use currently licensed by federal, state, county or town agencies and already operating within the Town shall present evidence or currently valid licenses before any expansion permits are considered.
- E. Fee. The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application.

§70-13. Building permit classes; issuance; termination.

- A. Under the terms of this chapter, the following classes of building permits may be issued.
 - 1. Permitted use. A building permit for a permitted use may be issued by the Code Enforcement Officer of his own authority.
 - 2. Special permit uses. A building permit requiring a special use permit approval may be issued by The Code Enforcement Officer after special permit approval from the Planning Board.
 - 3. Building permit, after an appeal or request for variance. A building permit may be issued by the Code Enforcement Officer upon order of the Zoning Board of Appeals after a public hearing as more fully described in Article XI.
- B. When all requirements of this chapter have been met, the Code Enforcement Officer shall issue a building permit and return one (1) approved copy of the building permit no later than fifteen (15) days after approval. The Code Enforcement Officer shall file one (1) copy of the approved permit in the Town Clerk's Office.
- C. Any building permit for which construction does not have a certificate of occupancy one (1) year after issuance shall expire. The code enforcement officer may extend the duration of an expired building permit for up to six(6) months for good reason when requested by the applicant.

§ 70-14. Certificate of compliance.

The applicant shall notify the Code Enforcement Officer when the structure is ready for final inspection. The Code Enforcement Officer shall then make a final inspection. If satisfied that the regulations pertaining to the project have been completed as specified on the approved application, the Code Enforcement Officer shall issue a certificate of compliance with the zoning laws, granting permission to occupy or use the structure.

§ 70-15. Mobile home park conformity.

Mobile home park operators are required to notify the Town Code Enforcement Officer within five (5) days each time a different mobile home is moved into the park.

ARTICLE IV

Establishment and Designation of Zones

§ 70-18. Establishment of Zones.

For the purpose of promoting the public health, safety and general welfare of the Town of Canton, the Town is hereby divided into the following types of zones:

- Residential
- Hamlet
- Rural
- Commercial
- New York State Wildlife management area (WMA)
- Planned Unit Development (PUD)

§ 70-19. Zoning Map.

Said zones are bounded as shown on the map entitled the "Zoning Map of the Town of Canton 1997 Revision", which accompanies and which, with all explanatory material, is hereby made a part of this chapter.

Editor's Note: The Zoning Map is on file in the office of the Town Clerk and is available for inspection during regular business hours.

§ 70-20. Designation of boundaries; determination of location.

The zoning map shall be used to determine zone boundaries. In case of uncertainty as to the true location of a zone boundary line in a particular instance, the Code Enforcement Officer shall render a determination. The Code Enforcement Officer may request the assistance of the Zoning Board of Appeals in rendering the determination.

ARTICLE V

Zone Regulations

§ 70-22. Residential Zone (R).

Updated 6/13/16

- A. Purpose. The purpose of this district is to protect and enhance existing residential use, while providing for orderly residential growth and development in the town.

- B. Permitted Uses.
 - 1. Single family dwelling units with the exclusion of manufactured homes as defined by the New York State Residential Code.
 - 2. Agricultural uses in a NYS certified Agricultural District as defined by New York State agriculture and Markets Law. Such uses shall be subject to site plan review only.

- C. Permitted Accessory Uses.
 - 1. Uses and structures customarily incidental to permitted, special permit and site plan review uses and structures.

- D. Special Permit: (subject to special permit use regulations, Article VII)
 - 1. Conversion of one-family dwelling into two (2) units. The minimum square footage for the second dwelling is 350 square feet.
 - 2. Home occupations.
 - 3. Camping grounds.
 - 4. Institutional uses.
 - 5. Small wind facilities
 - 6. Community-supported agriculture.
 - a. There shall be a minimum lot size of three (3) acres (regardless of the language in §70-22, Subdivision E).
 - b. The site shall be designed and maintained so that contaminated water and fertilizer shall not drain onto adjacent property.
 - c. There are to be no retail sales on the site, except for produce actually grown on the site.
 - d. Off-street parking must be available for all vehicles.
 - e. There shall be no importation of water by the use of vehicle hauling. This is to prevent traffic issues. Nothing prevents the applicant from having on-site water from any supply that is present on the land.
 - f. No special permit shall be granted by the Planning Board if the subject parcel is involved in litigation with the

Town of Canton over an alleged zoning matter. The Planning Board shall not issue a special permit until notified by the Town that said litigation has been settled. This language pertains to all the subdivisions under Section 3 paragraph D.

This special permitted use does not include u-pick farming, beehives or maple sugaring.

7. Chickens.
 - a. Maximum of six (6) chickens per owner.
 - b. No roosters are allowed.
 - c. There must be an enclosed coop with an enclosed run of a minimum of 100 square feet and a maximum of 200 square feet. If the coop is less than one hundred forty-four (144) square feet, no building permit is required unless it is attached to another building.
 - d. There is no minimum acreage requirement.
 8. Multiple dwelling units.
 9. Duplexes.
- E. Specifications.
1. Setbacks:
 - a. Front: Seventy-five (75) feet.
 - b. Side: Minimum fifteen (15) feet - total fifty (50) feet.
 - c. Rear: Thirty (30) feet.
 2. Frontage: One hundred fifty (150) feet.
 3. Height: Shall not exceed the distance to the nearest boundary.
 4. Minimum lot size: One (1) acre.

§70-23. Hamlet Zone (H).

Updated 6/13/16

- A. Purpose. The purpose of the Hamlet Zone is to recognize that a crossroads community is a unique area where private homes and small business uses exist in harmony.
- B. Permitted uses:
1. One family dwellings.
 2. Manufactured homes.
- C. Permitted accessory uses.
1. Uses and structures customarily incidental to permitted and special permit uses and structures.
- D. Special Permit: (subject to special permit use regulations. Article VII).
1. Commercial services.
 2. Daycare centers.
 3. Motorized vehicle and equipment sales and service and fuel outlet, with or without convenience store.
 4. Multiple dwelling units.
 5. Camping ground.
 6. Manufactured home park.
 7. Home occupation.
 8. Agricultural uses as defined by New York State Agriculture and Markets Law.
 9. Clubs.
 10. Public and quasi-public buildings and grounds.
 11. Restaurants.
 12. Taverns.
 13. Retail and wholesale businesses.
 14. Institutional Uses.
 15. Recreational Facility.
 16. Telecommunication towers.
 17. Small wind facilities.
- E. Specifications.
1. Setbacks.
 - a. Front: Thirty (30) feet unless this visually conflicts with the general setback of adjacent structures.
 - b. Side: Minimum of ten (10) feet with a combined total of twenty-five (25) feet.

- c. Rear: twenty (20) feet.
- 2. Frontage: Sixty (60) feet.
- 3. Height: Shall not exceed the distance to the nearest boundary.
- 4. Minimum lot size: One-half (½) acre.

§ 70-24. Rural Zone (R).

Updated 6/13/16

- A. Purpose: The purpose of the Rural Zone is to delineate agriculture, rural and open land areas and to provide acceptable compatible growth and diversity, yet maintain a rural character.
- B. Permitted Uses.
 - 1. Agricultural and agri-business as defined by New York State Agricultural and Markets Law.
 - 2. One- and two-family dwellings.
 - 3. Manufactured homes.
- C. Permitted Accessory Uses.
 - 1. Uses and structures customarily incidental to permitted uses and special permit uses and structures.
 - 2. Accessory uses are not to be used on a commercial basis, except for home occupations.
- D. Special Permit:
 - 1. Home occupations.
 - 2. Airports and helicopter landing sites.
 - 3. Camping grounds.
 - 4. Small rural businesses
 - 5. Manufactured home park.
 - 6. Multiple dwelling units.
 - 7. Kennels and animal hospitals.
 - 8. Institutional uses
 - 9. Recreational facilities.
 - 10. Transfer stations / recycling centers.
 - 11. Two family and group dwellings.
 - 12. Telecommunications towers.
 - 13. Small wind facilities (defined in §70-68).
 - 14. Motorized vehicle sales and/or repair.
 - 15. Slaughterhouse

E. Specifications:

1. Setbacks.
 - a. Front: Seventy-five (75) feet.
 - b. Side: Minimum of fifteen (15) feet with a combined total of fifty (50) feet.
 - c. Rear: Thirty (30) feet.
2. Frontage: Two hundred (200) feet.
3. Height: Shall not exceed the distance to the nearest boundary.
4. Minimum lot size: One (1) acre.

§ 70-25. Commercial Zone (C).

Updated 6/14/10

A. Purpose: The purpose of this zone is to delineate areas appropriate for general and special commercial uses.

B. Permitted uses:

1. Any uses permitted and special permit uses in Residential, Rural and Hamlet Zones are allowed except junkyards, transfer stations, recycling centers, kennels and animal hospitals, airports and helicopter landing sites.

Also permitted are:

- a. Business services, including warehousing and storage.
- b. Retail and wholesale businesses.
- c. Professional offices.

C. Permitted Accessory Uses.

1. Uses and structures customarily incidental to permitted uses and structures.
2. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.

D. Special Permit:

1. Junkyards.
2. Kennels and Animal Hospitals.
3. Airports and Helicopter Landing Sites.
4. Manufacturing.
5. Adult Entertainment
6. Transfer Stations / Recycling Centers.
7. Telecommunications towers.
8. Small wind facilities (defined in §70-68).

E. Specifications.

1. Setbacks:
 - a. Front: one hundred (100) feet.
 - b. Side: minimum of fifteen (15) feet with a combined total of fifty (50) feet.
 - c. Rear: twenty (20) feet.

§ 70-26. New York State Wildlife Management Area (WMA).

- A. Purpose. To recognize the area designated by New York State Department of Environmental Conservation as a Wildlife Management Area.
- B. Permitted uses. The Town has no permitted uses. Uses only as designated by New York State D.E.C..

§ 70-27. Planned Unit Development Zone (PUD).

Updated 3/11/03

- A. Purpose: The purpose of the Planned Unit Development Zone shall be a more desirable environment than would be possible through strict application of other articles of this ordinance by allowing for a planned mix of residential, commercial, and even industrial uses (as separate uses or a mix of two or more uses), subject to restrictions calculated to achieve compatible and efficient use of the land in accordance with the comprehensive plan of a community.

These purposes seem to be safely within the permitted purposes of Zoning as expressed in the zoning enabling acts (Town Law 261, 263) Sec. 263 of the Town Law requires that zoning regulations be imposed “with a view to conserving the value of buildings and encouraging the most appropriate uses of land throughout such municipality”. Planning of developments have been cited as among the most flexible of zoning techniques because the parameters are set by local law.

1. To provide for new residential, commercial or industrial districts in which economies of scale or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of the Zoning Law.
2. To ensure that regulations of this section are so interpreted and applied that the benefits of this chapter to the residents or occupants of the PUD or the residents or occupants of adjacent properties will be protected.

- B. Location: Planned Unit Developments (PUDs) are not located on the zoning map but rather located in any area of the town. There is a two-step approval process which allows for a carefully, pre-planned method of introducing a project to protect surrounding owners and ensure that the project is large enough to pass the review of stringent standards which guarantee protection of the neighborhood. Compliance with SEQR is required.
- C. Projects for a Planned Unit Development Zone may be established in accordance with the procedure specified as follows: Application for designation of a planned unit development zone shall be made to the Town Board. Since this involves approval of the development plan and an amendment to the Zoning Map, the applicant should hold a sketch plan review with the Planning Board. The applicant shall furnish basic data pertaining to the boundaries of the proposed zone, existing zoning, topography, drainage and soil conditions, existing uses and such preliminary plans as may be required for an understanding of the proposed development. The Town Board shall refer the application to the Planning Board for preliminary review within ten (10) days after receipt of the application. The purpose will be to give both the municipality and the applicant an opportunity to gain a better perspective on the ramifications of the proposal. This step is beneficial to both parties because the community will gain knowledge of the developer's intent and the developer will learn his responsibilities before either is committed to significant outlays of time and money.
- D. Specifications. The calculation of area for a planned zone shall not include existing streets or otherwise dedicated land, or land undesirable by reason of topography for that specific PUD, drainage or adverse subsoil conditions.
1. A planned residential PUD shall have a minimum area of five (5) acres.
 2. A planned commercial or industrial project shall have a minimum area of ten (10) acres and may not be located in a Residential Zone.
- E. Planning Board Review of Planned Unit Development Zone. The Planning Board shall review any planned unit development application and may require such changes in the preliminary plans as are found to be necessary to meet the requirements of this chapter, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community

- F. Preliminary Plan Review. In reaching its decision on the proposed application and/or changes, if any, in the preliminary plans, the Planning Board shall consider, among other things the following:
1. The existing character of the neighborhood.
 2. The location of principal buildings on the site in relation to one another and to other structures and uses in the vicinity.
 3. The pedestrian circulation and open space in relation to the structures.
 4. The traffic circulation, including impact of the PUD on state and local roads as well as within the PUD, and the amount, location, and access to automobile parking areas and loading areas.
 5. The height and bulk of buildings.
 6. The proposed location, type and size of display signs, driveways and landscape plan.
 7. The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general.
 8. Sanitary waste disposal in and adjacent to the development.
 9. Also all information that is requested under Article VII (70-55), Site Plan Review.
- G. Preliminary approval. The Planning Board shall approve, approve with modifications or disapprove the application and shall report its findings to the Town Board within sixty-two (62) days following the date of referral to the Planning Board. Planning Board approval of the preliminary plans shall not constitute or imply a permit for or approval of construction plans.
- H. Final Approval. The Town Board shall approve, approve with modifications or disapprove of the proposed Planned Unit Development zone. In addition to the referral to the Town Planning Board, the Town Board shall conduct a public hearing on the proposed zone change prior to rendering its decision. Such public hearing may be conducted during the same time as the Town Planning Board review. The Town Board shall render its decision within 30 days of receipt of the Town Planning Board recommendation. In the event that the Planning Board recommends disapproval of the proposed planned development zone, or approves it with modifications, which the developer is unwilling to comply with an affirmative vote of not less than three-fourths (3/4) of the members of the Town Board shall be required to approve the said project.
- I. Public hearing. The Town Board shall hold a public hearing on any proposal to create or change a Planned Unit Development Zone,

with public notice as provided by law and as in the case of any amendment to the Zoning Law, to establish and define the type and boundaries of the Planned Zone after a public hearing.

- J. Building permit. A building project within a planned district shall conform substantially to the plans approved by the Planning Board and/or Town Board. A building permit may be issued by the Code Enforcement Officer only after construction plans and specifications have been filed and approved. If construction work on the proposed building project is not begun within time limits specified by the building permit or such work is not completed within the period of time specified by such permit, approval of the project application shall become void and all rights therein shall cease, unless the Town Board, for good cause, authorizes an extension.

- K. Application for construction of a building project within an existing PUD zone.
 - 1. Application for Construction of a building project within an established PUD zone shall be referred to the Planning Board by the Code Enforcement Officer. The applicant shall furnish the necessary data as required in Article VII ' 70-55.
 - 2. The Planning Board shall hold a public hearing within sixty (60) days of referral of application on a proposed building project, as provided by law.
 - 3. The Planning Board will approve, approve with modifications or disapprove the proposed building project. The Code Enforcement Officer may issue a building permit for the project upon written approval or approval with modifications from the Planning Board.
 - 4. If the developer is unwilling to agree to modifications or the project is disapproved, he/she may make appeal to the Zoning Board of Appeals.

ARTICLE VI
Regulations Applicable to All Zones

§ 70-29. Any new commercial use adjoining and adjacent to a residentially occupied lot requires a special permit.

§ 70-30. Accessory buildings.

- A. On any lot intended or used for residential purposes, accessory buildings may include a garage, noncommercial home workshop or other accessory building or use in connection with principal dwelling and use.
- B. Height: as allowed in the zone.
- C. Location. Accessory buildings in residential zones which are not attached to a principal building may be erected in accordance with the following requirements:
 - 1. Rear yard: ten (10) feet from side or rear property line.
 - 2. Side yard: street side of corner lot, same as for principal building.
 - 3. Not closer to a principal or other accessory building than ten (10) feet.
- D. Attached accessory building in residential zone. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements for this chapter applicable to the principal building.
- E. Non-residential accessory building. Nonresidential accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than ten (10) feet.
- F. Truck bodies, trailers, buses, campers, mobile homes etc. shall not be used as accessory buildings.

§ 70-31. Nonconforming uses, lots and structures.

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of this chapter and which would be prohibited or restricted under the terms of this chapter may be continued subject to the following provisions.

- A. Intent. It is the intent of this chapter to permit legal nonconforming uses to continue as required by law until they are removed, but not to encourage their survival or expansion.
- B. Unsafe structures. Any non conforming structure or portion thereof declared unsafe, shall be restored to safe condition or removed.
- C. Alterations. A nonconforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty percent (50%) of the replacement costs of said structure, unless the structure shall be changed to a conforming structure.
- D. Enlargement. Nonconforming uses shall not be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the adoption of this chapter.
- E. Restoration. Nonconforming structure damaged by fire, or other causes, to the extent of more than seventy-five percent (75%) of its replacement cost shall not be repaired or rebuilt except in conformity with the requirements of this chapter.
- F. Discontinuance. Whenever a nonconforming use has been discontinued for a period of one (1) year, the use shall not thereafter be reestablished, and any future use shall conform with the provisions of this chapter.
- G. Changes. Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a nonconforming use.
- H. Displacement. No nonconforming use shall be extended to displace a conforming use.
- I. Moving. Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the zone in which it is located after it has been moved.

J. Existing undersized lots of record.

1. Any recorded lot held in ownership prior to the adoption of this chapter and whose area and/or width and/or depth are less than minimum requirements specified herein for the zone may be considered as complying with this chapter, and no area variance therefor shall be required, provided that:
 - a. Such lot does not adjoin any other lot or lots held by the same owner, the aggregate area of which lot is equal to or greater than the minimum lot area required for that zone.
 - b. The minimum yard requirements set by this chapter are met.
2. In any zone where residences are permitted, such undersized nonconforming lots may be used for not more than one (1) single-family dwelling.
3. A lot of nonconforming size may be divided if each and every division of such lot is purchased by the owner or owners of adjoining properties to increase the size of said owner's property.

K. Projections in required yards.

1. The space in any required yard shall be open and unobstructed except for accessory buildings in a side or rear yard and except for the ordinary projections of window sills, cornices and eaves; provided, however, that such features shall not project more than four (4) feet into any required yard.
2. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other form of enclosure.
3. In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches open at the side, but roofed, shall be considered a part of the building.
4. Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six (6) feet.
5. Ramps for access by handicapped persons are exempt from projection regulations.

L. Side yards. Side yards may be varied where the side wall of a building is not parallel to the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that

such side yard shall not be narrower at any one (1) point than one-half ($\frac{1}{2}$) the otherwise required minimum width. Refer to corner lots (§ 70-35).

- M. Farms and holding areas. In any Residential Zone, existing farms and holding areas, may continue at the general scale of operations existing at the time of adoption of the Zoning Law.

§ 70-32. Parking.

Updated 6/13/16

- A. Off-street parking space shall be required for all buildings constructed or substantially altered after the effective date hereof. Each off-street space shall consist of at least one hundred eighty (180) square feet with a minimum width of nine (9) feet. In addition, space necessary for aisles, maneuvering and drives shall be provided and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. Parking requirements are specified in the schedule below, which is hereby made a part of this Article.
- B. For uses not specified, the Board of Appeals shall, on appeal, and after the recommendation of the Planning Board, establish parking requirements in specific cases consistent with those specified in the schedule below.
- C. For any building having more than one use, a parking space shall be required for each use.
- D. Required off-street parking in residential districts and for residential uses in any district whatsoever shall be located in the side or rear yard only.
- E. Floor areas, for purposes of computing parking requirements, shall be the sum of the horizontal area within the exterior walls of the several floors of a building, excluding basement, cellar and attic areas use.
- F. Parking or storage of mobile homes, trailers or boats out-of-doors in residential districts shall be confined to the rear yard and not within twenty-five (25) feet of any property line.
- G. Overnight parking or storage out-of-doors of any vehicle licensed for commercial purposes and with more than two axles shall be prohibited in any residential district.

- H. Off-street parking lots shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access and pedestrian walkways and shall be developed as an integral part of an overall site design.

Off-Street Parking Schedule

<u>Use</u>	<u>Spaces Required</u>
Single family and duplex	2 for each dwelling unit
Apartment (3 units or less)	1 1/2 for each dwelling unit
Apartment (4 or more units)	2 for each dwelling unit
Motel, hotel, rooming house and group home	1 1/2 for each room, plus 1 for each employee on maximum shift
Fraternity, sorority and dormitory	1 for each resident, plus 1 for each employee on maximum shift
Office	1 for each 400 square feet of floor space, plus 1 for each employee on maximum shift
Funeral home	15, plus 1 for each employee on maximum shift
Church, temple and religious institutions	1 for each 8 seating spaces in main assembly room, plus 1 for each employee on maximum shift
Schools	1 for each employee on maximum shift, plus the following additional requirements:
Elementary	2 for each classroom
High	4 for each classroom
College or university	1 for each 4 students
Theater and other places of assembly	1 for each 4 seating spaces, plus 1 for each employee on maximum shift
Hospital, nursing home and convalescent home	1 for each 2 beds, plus 1 for each employee on maximum shift

Doctor's office, dentist's office and medical center	1 for each 250 square feet of floor space, plus 1 for each employee on maximum shift
Retail store (under 10,000 square feet)	1 for each 250 square feet of floor space, plus 1 for each employee on maximum shift
Retail store (10,000 square feet or over)	1 for each 300 square feet of floor space, plus 1 for each employee on maximum shift
Shopping Center	1 for each 300 square feet of floor space, plus 1 for each employee on maximum shift
Club and restaurant	1 for each 100 square feet of floor space, plus 1 for each employee on maximum shift
Bowling alley	5 for each alley, plus 1 for each employee on maximum shift
Wholesale, storage, freight termination, industrial and manufacturing	5, plus 1 for each employee on maximum shift
Home occupation	Space for all customers, patients, students, clients and residents, off street as determined by the Planning Board

§ 70-33. Alternate energy systems.

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany external alternate energy systems.

- A. Any alternate energy source system shall require a building permit and be subject to site plan review.
- B. Applicants for building permits for alternate energy systems shall indicate the potential effect on neighboring properties from noise, odor, aesthetic, health or safety considerations of the system.
- C. This impact shall not exceed generally acceptable engineering standards.
- D. They will be required to be structurally and aesthetically maintained in an acceptable condition.

§ 70-34. Maximum buildings per lot size.

Updated 9/11/01

Residential uses in all zones shall be limited to one residential building per parcel, as designated by an individual Tax Map Number, with the exception of PUDS.

§ 70-35. Corner lots.

On corner lots, the sides facing both streets shall be considered front yards. Of the other sides, one shall be considered rear yard and the other side yard, at the owner's option.

§ 70-36. Fences.

Updated 11/14/06

Fences erected on residential lots in the Town shall adhere to the following, unless otherwise specified:

- A. Fences may be erected, altered or reconstructed to a maximum height of eight (8) feet. Construction shall be of dimensional lumber purchased at lumber yards or rough cut dimensional lumber purchased from Amish sawmills. Fences may also be constructed of any other product sold at lumber yards for the express purpose of constructing fences, including cedar rail fences.

- B. Fences cannot be made from anything non-dimensional, such as slab wood or any materials that could pose a threat to human safety, including electrified wire, barbed wire or razor wire.
- C. No fence shall cause an obstruction to vision at an entrance or exit on a road or at an intersection and shall be set back from property lines at least four (4) feet.
- D. All fences shall be maintained in good repair, structurally sound with any wood surface other than decay resistant wood being protected from the elements and decay by painting or other protective covering or treatment.
- E. Finished sides must face any adjacent lot.

§ 70-37. State, Federal or Local Government designated Historic Buildings.

The Town Board may designate buildings that it deems to be of historic significance to the Town of Canton, only upon request by owner.

For any building determined to be of historic significance:

- A. All building permits shall require site plan approval from the Planning Board as outlined in Article VII.
- B. No demolition or substantial exterior alteration resulting in an essential change in the building is allowed without site plan review.
- C. The Town Planning Board Special Permit plan must demonstrate the following additional requirements in its findings.
 - 1. The building or use must be consistent with the architecture style and historic significance of the site.
 - 2. The building or use may not encroach, diminish or otherwise lessen the significance of other structures or uses within the area.
 - 3. To demolish, evidence of construction or structural problems must be shown to preclude any reasonable effort at rehabilitation, restoration or preservation.
- D. The Planning Board may consult experts to aid in demonstrating the requirements of Subsection C above.

§ 70-38. Individual mobile homes.

- A. Definition: A structure transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is compatible with New York State Uniform Fire Prevention and Building Code and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities and includes the plumbing, heating and air conditioning and electrical systems contained thereon. Only mobile homes manufactured after June 1976 and bearing a HUD seal are considered a mobile home according to this law.
- B. It is hereby recognized that mobile homes are accepted housing by many individuals. It is also recognized that standards enacted at the federal and state levels have caused newer units to be safe, energy efficient, fire retardant structures. The following standards and installation requirements are required.
1. Only mobile homes manufactured after June 1976 and bearing the HUD Seal shall hereafter be placed in the Town of Canton.
 2. All mobile homes shall be provided with a skirt constructed of generally accepted exterior materials of uniform appearance with proper venting within thirty (30) days after the placement of the mobile home on its foundation.
 3. Mobile homes are subject to all applicable portions of this chapter pertaining to single unit dwellings.

§ 70-39. Mobile home parks.

Mobile home parks must meet these specific regulations:

- A. The park shall meet the setbacks of the zone the mobile park is in.
- B. The minimum site area of proposed mobile home parks shall not be less than five (5) acres.
- C. Mobile home lots shall have an area of not less than ten thousand (10,000) square feet. Each mobile home lot shall front on an interior park roadway and have minimum width of seventy-five (75) feet.
- D. Minimum interior setbacks.

1. Minimum front setback for mobile homes: twenty (20) feet.
 2. Minimum side setback: twenty (20) feet.
 3. Minimum rear setback: twenty (20) feet.
- E. All mobile homes must be anchored to the ground as per New York State Code.
- F. Not more than one (1) mobile home shall be located on any one (1) mobile home lot and shall have a New York State approved foundation. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
- G. All mobile homes must bear a Housing and Urban Development certification seal.
- H. At least one (1) service building may be constructed in each mobile home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.
- I. Each mobile home lot must have no less than two (2) off street parking spaces. Such parking spaces shall be connected to the entrance of the mobile home by an improved walkway.
- J. A complete water distribution system approved by the New York State Health Department shall exist for each mobile home park if there is not a municipal water system. It must have a water service pipe for each mobile home lot.
- K. A sanitary sewage disposal system approved by the New York State Department of Health and other appropriate agencies shall be installed and maintained if there is not a municipal sewage system. It shall include a sewer connection for each mobile home lot.
- L. All public utility, electric, cable television and telephone lines to each individual dwelling unit shall be installed underground.
- M. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one (1) at each intersection of interior roadways with each other or with abutting public roads and at least two hundred (200) feet where such intersections are more than two hundred (200) feet apart.

- N. A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- O. No mobile home shall be located on a mobile home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site plan for the mobile home park.
- P. All fuel tanks used for heating within mobile home park, including all systems used for heating within mobile homes, shall be installed in accordance with appropriate New York State standards.
- Q. The park owner or tenant shall provide for the regular collection and disposal of garbage, trash and rubbish.
- R. No more than one (1) accessory building shall be permitted on any mobile home lot.
- S. Each mobile home shall have a skirt constructed of generally accepted exterior materials of uniform appearance with proper venting, within thirty (30) days after the placement of the mobile home on its foundation.
- T. No enclosure or addition with the exception of carports, decks, roofs, door porches and patios shall be constructed on or added or attached to the exterior of any mobile home.
- U. No mobile home shall be offered for sale, displayed for sale or sold within a mobile home park unless such mobile home is located on a mobile home lot and is connected to an electric public utility supply and to a sewer and water supply.
- V. Each roadway shall be named and noted upon signs at each roadway intersection. Each mobile home lot shall be assigned a permanent 911 locator number which shall be noted on the mobile home lot in a location clearly visible from the roadway.
- W. Every roadway within a mobile home park shall have a minimum pavement width of twenty-two (22) feet and a minimum cleared width of fifty (50) feet. If cul-de-sac exists, they shall have a minimum diameter of seventy (70) feet.
- X. Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times and reasonably passable for

travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provision of this subsection shall apply to mobile home parks hereafter established within the town.

§ 70-40. Campgrounds.

Campgrounds shall be occupied only by travel trailers, pickup camper, motor homes, camping trailers, recreational vehicles and tents suitable for temporary habitation and used for travel, vacation and recreational purposes. The removal of wheels or placement of a unit on a foundation in a camping ground within a designated flood plain is prohibited. Campgrounds must meet these specific regulations:

- A. Minimum gross site area: One (1) acres.
- B. Not more than eight (8) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- C. Minimum site width is fifty (50) feet. Setbacks for the frontage shall be the normal setbacks for the zone the campground is in. No site shall be within fifty (50) feet of a property line.
- D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health and safety of the occupants. The site shall not be exposed to objectionable smoke, odors or other adverse influences, and no portion of the campgrounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- E. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin operated laundries and other uses and structures customarily incidental to the operation of campgrounds are permitted as accessory uses to the campgrounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in campgrounds in such zones where such uses are not allowed as principal uses, subject to the following restrictions:
 - 1. Such establishments shall present no visible evidence from any street outside the campground of their commercial character.

- F. Potable water and sewage disposal: If potable water and sewage disposal are provided, they must meet Department of Health standards.

§ 70-41. Adult entertainment.

- A. Purpose: The purpose of this Article is to regulate the establishment of such adult use businesses within close proximity to residentially zoned areas, town boundaries, schools playgrounds, youth centers and churches and to minimize said effects on near by properties.
- B. General requirements:
1. No adult use shall be located in the Town of Canton, except in the Commercial Zone.
 2. No adult use shall be located within two thousand (2,000) feet of any residentially zoned area or municipal boundary.
 3. No adult use shall be located within two thousand (2,000) feet from any church, school, park, playground, youth center or location where children & youth traditionally congregate.
 4. No adult use shall not be located within two thousand (2,000) feet of any other such adult use.
 5. Sexually suggestive photographic or artistic representations shall not be visible from outside. All signage shall be in compliance in all other respects with the existing regulations of the Town of Canton.
 6. All openings to an adult use facility shall be located and screened in such a manner as to prevent a view into the interior from the exterior.

§ 70-42. Signs.

Updated 6/13/16

- A. Purpose
It is the purpose of this section to establish sign regulations to minimize distractions and obstructions, which may contribute to traffic accidents, to protect property values, to create an attractive business climate, to enhance and protect our resources, and the visual quality of the Town.
- B. Applicability
All signs require a permit issued by the Planning Board except for the following:
1. Official street or highway signs that advertise the local

- governments and signs erected by the state.
2. Non-advertising signs placed for directions or safety (e.g. rest rooms, telephone, falling ice, no trespassing)
 3. Temporary unlighted signs erected by and for non-profit organizations, such as churches, Veterans Organizations, scouts, political organizations, etc. advertising suppers, banquets, benefits, fund-raising sales, etc. may be erected for a forty (40) day period in any zone, provided that the sign will not constitute a traffic hazard and the property owner has given permission. Signs shall not be placed within ten (10) feet of a roadway. Said sign shall be removed within forty-eight (48) hours after the advertised event.
 4. Temporary unlighted real estate development or construction signs, not exceeding thirty-two (32) square feet in size and on the property being the subject of the sign. Temporary unlighted signs advertising real estate for sale, rent or lease shall not exceed ten (10) square feet. Such signs shall be removed within seventy-two (72) hours when the project or sale is completed.

C. General Provisions

1. Sign lights must be shielded or directed to minimize the impact on neighboring property. Neon, LED and/or moving signs must be placed as not to cause distraction to passing motorists.
2. No sign attached to a building shall be higher than the principle building and shall not exceed twenty-five (25) feet in height above the average finished grade of the site.
3. No free standing sign shall be higher than twenty-five (25) feet in height above the finished grade of the site.
4. No sign shall project into a public right-of-way.
5. No sign shall be erected on a public utility pole or traffic control structure.
6. No sign shall be affixed to a vehicle, recreation vehicle, truck body, etc. in such a manner that the display of such a sign is the primary purpose of the vehicle.
7. Where several businesses occupy a single location, e.g. shopping mall, the ordinance supports a ladder type multiple sign, advertising each business, which shall not exceed ten (10) feet in width. The header sign shall not exceed one hundred twenty (120) square feet. Lettering on the ladder sign shall be consistent where practical. Signs shall be allowed at each entrance to the location.
8. When the location of a business is not readily apparent, an off-premises directional sign shall be allowed, not to exceed thirty-six (36) inches high and forty-eight (48) inches long,

with no larger than five (5) inch lettering. The business must have the written permission of the property owner on which the sign is located.

9. Home occupations are permitted, one attached and one free standing sign not to exceed six (6) square feet each and a maximum height of eight (8) feet.
10. Any sign adjacent to a residentially used property must be at least fifteen (15) feet from the adjoining property line.
11. Non-commercial messages are allowed to be displayed wherever signs are permitted.
12. Seasonal signs, being signs erected for sixty (60) days or longer, such as those advertising vegetables, flowers, syrup, etc., must receive site plan approval. Seasonal signs must be taken down at the end of the season. Seasonal signs may be off premises. The sign owner must have the written permission of the property owner on which the sign is located. Annual renewal is required, at no charge.
13. Billboards are not allowed.

D. Digital Display (LED) Signs.

1. Sign display must remain static for a minimum of eight (8) seconds.
2. Sign display change must be instantaneous, fading or scrolling in and out of messages is prohibited.
3. Signs are limited to 5,000 nits during daylight and 500 nits after dark. Nit certification must be provided with a sign application.
4. Signs must go dark if there is a malfunction.
5. Signs must remain static after 9:00 p.m.
6. Signs must be off from 11:00 p.m. until 6:00 a.m.

E. Additional signage regulations.

1. Signage per site.

Two (2) free standing signs with a maximum of two (2) sides per sign, with a total of one hundred twenty (120) square feet with no side to exceed sixty (60) square feet. In lieu of one (1) free standing sign, a sign shall be permitted on the building façade, not to exceed 60 square feet.

For Example:

- a. Two (2) free standing signs, each 4' X 8' (each $4 \times 8 = 32$ square feet), would equal 64 square feet ($32 + 32 = 64$) and therefore be allowed.
- b. Two (2) free standing signs, one 10' X 8' ($10 \times 8 = 80$ square feet) and one sign 4' X 6' ($4 \times 6 = 24$ square feet), would equal 104 square feet ($80 + 24 = 104$) would not be allowed because one sign is bigger than

60 square feet.

2. All existing signs at the enactment of this chapter shall be allowed to remain as long as they are properly maintained and their use remains current. The signs shall not be expanded or replaced without a permit.

Footnote: All signs allow lettering on both sides of the sign.

§ 70-43. Noxious and/or Nuisance Conditions.

A. Definition:

Noxious: When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason of destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding area or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure.

Nuisance: Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

Note: Nothing in this section is meant to limit or restrict agricultural operations within established agricultural districts pursuant to the regulations imposed within §25-aa of the New York State Agricultural & Markets Law.

- B. Whatever is determined to be a noxious or a nuisance condition is hereby declared to be illegal and every person having aided in or contributed to the same shall be in violation of this Article and shall be liable for the expense of the abatement or remedy required.
- C. The time specified for correction of the noxious or nuisance condition shall be determined by the Code Enforcement Officer depending on the severity of the situation.
- D. If a noxious or nuisance condition is not abated in the time specified by the Code Enforcement Officer, a citation for court appearance shall be issued.

- E. Whenever any person required by this Article to abate a noxious or nuisance condition shall fail to abate said noxious or nuisance condition, the Town of Canton shall remove and abate said noxious or nuisance condition within the specified time. All costs and expenses incidental to such abatement, removal and storage shall be billed to said owners and if not paid in thirty (30) days then added to said owner's Town tax.
- F. Notice of violations can be initiated by the Code Enforcement Officer observing the noxious or nuisance condition or by the Code Enforcement Officer receiving a written complaint.
- G. Penalties: Any person who shall violate the provisions of this Article shall be punishable by a fine of not less than 50 dollars nor more than 500 dollars. If such offending person shall have received notice to abate any nuisance and shall neglect to do so, the continuance of the same, each day after notice, shall constitute a separate violation of this Article.

§ 70-44. Storage Restrictions.

Amended 2/10/98.

No boats, campers, travel trailers, recreational vehicles, unregistered motor vehicle or unlicensed motor vehicle shall be parked or stored in a front yard. These stored vehicles must be placed at least a minimum of ten (10) feet from any principal or other accessory building or property line.

§ 70-47. Multiple-family dwellings.

Multiple-family dwellings must meet these specific regulations:

- A. The maximum gross density shall not exceed eight (8) units per acre providing all health and State Building Code requirements are met.
- B. The building lot coverage of multiple-family dwelling developments shall not exceed thirty percent (30%) of the total lot area.
- C. Minimum habitable floor area requirements:
 - 1. Efficiency: three hundred fifty (350) square feet.
 - 2. One (1) bedroom: five hundred fifty (550) square feet.
 - 3. Two bedrooms: eight hundred (800) square feet.
 - 4. Three bedrooms or more: nine hundred (900) square feet.
- D. Setback requirements:

1. Front setbacks shall be whatever the zone setback requirements are.
 2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.
 3. Minimum distance between buildings in a multiple-family dwelling development shall be eighty (80) feet.
- E. Off street parking shall be provided in the amount of two (2) spaces for each unit. Additional visitor parking of 25 parking spaces per dwelling unit shall be required.
- F. Plans submitted for site plan approval shall include: sewage disposal, water supply, storm drainage, recreation area, landscaping, lighting and any other requirements of site plan review.

§ 70-48. Motorized vehicle and equipment sales and service, and fuel outlets, with or without convenience store.

- A. Lot requirements: Same as requirements for zone located in.
- B. Entrance and exit driveways shall have an unrestricted width of not less than twenty (20) feet and shall be located not nearer than fifteen (15) feet from any property line and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.
- C. All buildings and above ground storage tanks shall be set back from the major or secondary road line a distance of not less than seventy-five (75) feet.
- D. Fuel pumps shall be located not less than forty (40) feet from the road and not less than thirty (30) feet from all other property lines.
- E. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designated for occupancy of more than fifty (50) persons or within five hundred (500) feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each lot. (Section E does not apply to commercial zones)
- F. The entire area of the site traveled by motor vehicle shall be hard surfaced.
- G. Motor vehicles and equipment shall be stored in a neat and orderly

manner. Partially dismantled or wrecked vehicles or equipment shall be screened to avoid visual unattractiveness.

§ 70-49. Small Wind Energy Conversion System (WECS) Development Standards.

Updated 6/13/16

All Small Wind Energy Systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

- A. A Small WECS system shall be located on a lot a minimum of one (1) acre in size.
- B. Small WECSs shall be used primarily to reduce the on-site consumption of electricity.
- C. Tower height shall not exceed sixty (60) feet. However, setbacks from all property lines shall be maintained, at a minimum, at one and one-half (1-1/2) times the total height of the tower.
 - 1. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
- D. No portion of the tower blade sweep shall extend within twenty (20) feet from the ground.
- E. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- F. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g. public parks, roads, trails). To the greatest extent feasible, a Small WECS shall use natural landforms and vegetation for screening.
- G. Exterior lighting on any structure associated with the system shall not be allowed, except that which is specifically required by the Federal Aviation Administration.

- H. All on-site electrical wires associated with the system shall be installed underground, except for “tie-ins” to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.
- I. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
- J. The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
- K. At least one (1) sign shall be posted on the tower at a height of five (5) feet, warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system’s or tower’s manufacturer logo may be displayed on a system generator housing in an unobtrusive manner.
- L. Towers shall be constructed to provide one of the following means of access control or other appropriate method of access:
 - 1. Tower-climbing apparatus located no closer than twelve (12) feet from the ground.
 - 2. A locked anti-climb device installed on the tower.
- M. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not ~~on~~ across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three (3) to eight (8) feet above the ground.
- N. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
- O. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind

turbine blade shall be at least twenty (20) feet above the highest structure or tree within a two hundred (200) foot radius.

Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

- P. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
- Q. All Small Wind Energy Systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- R. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to both inside and outside of agricultural districts. For WECS associated with agricultural operations in an agricultural district, no permits shall be required, but site plan review will be required.
- S. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.
- T. Noise. Except during short-term events, including utility outages and severe windstorms, a Small WECS shall be designed, installed and operated so that noise generated by the system does not exceed the 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.
- U. Abandonment of Use.
 - 1. A Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town of Canton.

ARTICLE VII

Special Permits And Site Plan Review

§ 70-50. Purpose.

It is the intent of this chapter to use special permits to control the impact of certain uses upon areas where they could be incompatible unless conditioned in a manner suitable to a particular location. Special permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

§ 70-51. Administration.

Pursuant to Town Law, § 274b, The Town Planning Board will administer the review and granting of special permits.

§ 70-52. Procedure.

- A. Each application for a special permit shall be accompanied by a proposed plan showing the information required for site plan approval. The applicant or agent for applicant should attend the Planning Board meeting to answer questions concerning the application.
- B. The Code Enforcement Officer shall refer the submitted special permit application to the Town Planning Board within ten (10) days after receiving the complete application.
- C. At its next regular or special meeting, the Town Planning Board shall designate a public hearing date, not to exceed sixty (62) days from the date application was received by the Planning Board.
- D. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a hearing notice in the official newspaper. The applicant is required to notify any agricultural operator within an Agricultural District and within five hundred (500) feet of a proposed project. The applicant must supply the Planning Board with notification letters post paid at least ten (10) days before the public hearing.
- E. The notice of the public hearing shall be published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.

- F. The Town Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The decision of the Planning Board shall contain the reasons for its decision.
- G. The Town Planning Board shall render its decision, either approving, approving with conditions or denying within sixty-two (62) days after the hearing, unless an extension is mutually agreed upon. All special use permit decisions shall be filed with the Town clerk no later than 5 business days from the date of decision and a copy of the decision shall be mailed to the applicant.
- H. Each special permit application must also receive site plan approval before the special permit may be granted.

§ 70-53. Purpose. Planning Board Site Plan Review

The intent of this section is to set forth general standards applying to the review of certain land uses and activities. The nature of these uses and activities requires special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this chapter and the Town Plan.

§ 70-54. Pre-application conference.

A pre-application conference may be held between the Planning Board and applicant to review the basic site design concept and generally determining what additional information (if any) to be required on the site plan including landscaping materials, if any.

§ 70-55. Planning Board Site Plan Review. (application criteria)

An application for site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information if necessary to complete its review.

- A. Plan checklist for all site plans.
 1. Title of drawing, including the name and address of the owner, the applicant and the person responsible for preparation of such drawing; it shall also include the Tax Map Number.
 2. North arrow, scale and date.

3. Boundaries of property plotted to scale.
4. Existing water course and bodies of water and designated wetlands.
5. A United States Geographic Survey (USGS) map or equivalent of the area shall be provided.
6. Proposed grading and drainage and storm water management system, if any.
7. Location, purposed use and height of all buildings and site improvements, including culverts, drains, retaining walls and fences.
8. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
9. Location of outdoor storage, if any.
10. Description of the method of sewage disposal and location of the facilities.
11. Identification of water source; If a well, locate it.
12. Location and size of all proposed signs.
13. Location and proposed development of all buffer areas including landscaping materials, if any.
14. Location and design of outdoor lighting facilities.
15. Location of essential services.
16. General Landscaping plan.

B. In some cases, the Planning Board may require the following:

1. Provision for pedestrian access.
2. Location of fire lanes and hydrants.
3. Designation of the amount of building area proposed for retail sales or similar commercial activity.
4. Other elements integral to the proposed development as considered necessary by the Planning Board.

§ 70-56. Review by Planning Board.

The Planning Board's review of the site plan may include, as appropriate, the following:

A. General Considerations.

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

3. location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
 4. Location, arrangement, appearance and sufficiency of offstreet parking and loading.
 5. Adequacy of storm water and drainage facilities.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Adequacy, type and arrangement of trees, shrubs and other landscaping, constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
 8. Protection of adjacent or neighboring properties against noise, glare, unsightliness or noxious condition.
 9. In cases of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 10. Adequacy of fire lanes and other emergency zones and the provision for fire hydrants, where feasible.
 11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- B. Consultant review. The Planning Board may consult with the Town Code Enforcement Officer, Fire Department, Highway Department, County Planning Department and other local county officials, in addition to representatives of federal and state agencies, including but not limited to, the Soil Conservation Service, the State Department of Transportation and the Department of Environmental Conservation or other professional consultants as needed. Expenditures for professional consultations require the approval of the Town Board.

§ 70-57. Findings.

- A. The Town Planning Board shall grant a special permit for uses identified as needing one in Article IV, provided that all requirements and conditions set forth in that Article VIII are complied with.
- B. The Planning Board shall make written findings for each special permit decision. Findings shall state the decision, the basis for the decision and the evidence relied upon to reach the decision. Compliance with the requirements of Article VIII shall be substantiated.
- C. All decisions shall be made by at least a majority of the full membership of the Town Planning Board. In those cases of a referral

recommendation by the County Planning Board, a majority plus one shall be required to override the County Planning Board decision, but a simple majority may always disapprove over the County Planning Board. Decisions may be affected as noted in § 70-89.

ARTICLE VIII

Special Permit Regulations

§ 70-59. Specific regulations to be met.

Updated 6/13/16

Any Special Permit not listed below is considered a general special permit and can be handled under Article VII including Site Plan Review.

No special permit shall be granted by the Planning board if the subject parcel is involved in litigation with the Town of Canton over an alleged zoning matter. The Planning Board shall not issue a special permit until notified by the Town that said litigation has been settle. This language pertains to all special permits.

§ 70-60. Airports.

Updated 6/13/16

- A. A Special Permit is needed for any zone.

- B. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for special permit outlined in Article VII §70-55, the following statements and information:
 - 1. Name and address of the proponent.
 - 2. Classification of the proposed airport (commercial, noncommercial or restricted).
 - 3. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.).
 - 4. Number of aircraft expected to be based at the airport initially and within five (5) years.
 - 5. Type of aircraft expected to be based at the airport (single engine, multiengine, turboprop, etc.).
 - 6. Whether an instrument approach procedure will be offered.
 - 7. Statement as to the anticipated number of daily operations.
 - 8. Copy of the airspace clearance granted by the Federal Aviation administration for this airport, including United States Geological Survey topographic map.
 - 9. Copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of §249 of the New York State General business Law.

§ 70-61. Helicopter landing sites.

Helicopter landing sites will be allowed in the Town of Canton in all districts except for residential. Applicants must obtain a special permit that shall be accompanied by a site plan that meets additional site plan requirements listed in § 70-42, Proof of Compliance with all applicable Federal Aviation Administration requirements (See County Planning Board.) and a copy of the New York State Commissioner of Transportation's determination that this facility is in accordance with the provisions of § 249 of the New York State General Business Law.

§ 70-62 Kennels and animal hospitals.

Requires a special permit in Rural and Commercial Zones, not allowed in other Zones. Kennels and animal hospitals must meet these specific regulations:

- A. Adequate landscaping or fencing shall be provided to create a visual, sound and odor buffer between such facility and adjacent properties.
- B. All buildings, pens, runs, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.
- C. All animals shall be kept within a totally enclosed building between 8:00 P.M. and 7:00 A.M..
- D. Buildings and runs shall not occupy more than fifty percent (50%) of the lot.

§ 70-63. Home Occupation.

Updated 3/11/03

Purpose: The intent of regulations governing home occupations is to protect the character of the surrounding neighborhood, particularly adjacent residential uses, from intrusions and nuisances created by the operating businesses in a residential area, while recognizing the needs of certain residents and the community benefits allowing certain types of work to be performed in the home. Businesses, which do not generate any outside traffic with no signage, would not require a home occupation permit.

- A. Definition. Home Occupation An occupation, profession, or service which is customarily carried on in a dwelling unit or in an existing accessory structure and is carried on by a member or members of the family residing in the dwelling unit which use is clearly incidental and subordinate to the use of the dwelling unit for residential purposes and which use conforms to all of the regulations and conditions listed in this definition.
- B. The Town Planning Board may upon application and a public hearing thereon, permit a Home Occupation in any zone subject to the provisions of this definition and subject to the applicant's ability to provide reasonable evidence that all of the following conditions will be met.
The following standards shall also apply:
 - 1. The occupation(s) will be conducted within a dwelling or existing

- accessory structure.
2. The occupation(s) must clearly be incidental and subordinate to the principal use of the dwelling.
 3. The establishment and conduct of Home Occupation(s) shall not change the principal character or use of the dwelling unit involved.
 4. No more than one (1) person other than members of the immediate family residing on the premises may be employed.
 5. Not more than twenty-five percent (25%) of the first floor area, not to exceed 500 sq. ft., of the residence may be devoted to such Home Occupation(s) in either the dwelling or an accessory structure.
 6. No storage or display materials, goods, supplies or equipment related to the operation of a Home Occupation(s) shall be visible from the outside of any structure located on the premises.
 7. Such occupation(s) shall not require extensive internal or external alteration or invoke construction features not customarily in a dwelling.
 8. The use shall not generate noise, vibrations, glare, fumes, odors or electrical interference above the ambient levels of the neighborhood.
 9. No traffic shall be generated by such Home Occupation(s) in significantly greater volume than would normally be expected in the zone, and any need for parking generated by the conduct of such Home Occupation(s) shall be met off the street and other than in a required front yard.
 10. See § 70-42 in reference to sign regulations.

C. Voiding of Permit.

1. On the recommendation of the Code Enforcement Officer, the Town Planning Board may void any Home Occupation Permit for noncompliance with the conditions set forth in approving the Permit.
2. A Home Occupation Permit is not transferable from the holder to another person or entity. Upon any sale of the premises where a Home Occupation Permit has been authorized, the Permit shall be void as of the date of transfer of title.
3. A Home Occupation Permit that remains inactive for one (1) year shall be void.

§ 70-64. Junkyards, Scrap and/or Salvage Operations (with or without recycling operations).

Updated 3/1/03

No person shall establish, operate or maintain a junkyard, scrap or salvage operation (either with or without a recycling component) in any area of the Town until a special permit has been authorized by the Town Planning Board and the operator has obtained an Annual Operating Permit. All junkyards and/or salvage/scrap operations shall comply with the following requirements.

- A. Size. The minimum lot size shall be ten (10) acres.
- B. Location. Unless specifically varied by the Board of Appeals, the following setback requirements shall apply to new junkyard: Said use shall not be located within:
 - 1. Five hundred (500) feet from any highway, body of water, or property line.
 - 2. Five hundred (500) feet from any existing dwelling (with the exception of a dwelling on the parcel), church, school, hospital, public building or place of public assembly.
 - 3. A twenty-five (25) foot vegetative barrier from any body of water or wet land is required.
- C. Fencing. Every junkyard shall be completely surrounded with a fence which substantially screens it and shall have a gate which shall be closed and locked except during the working hours of said use. Such fence shall not be erected nearer than one hundred (100) feet from the center line of a public highway. All junk and dumping materials stored or deposited at the site shall be kept within the enclosure, except during transportation of same in the reasonable course of the business.
- D. Natural Screening. Where the topography, land forms, natural growth of trees or similar considerations accomplish the fencing and screening purposes of this subsection, the fencing requirements hereunder may be reduced by the Town Planning Board, provided, however, that such a natural barrier effectively controls access to and views of said junkyard.
- E. Established Junkyards. Within sixty days of the effective date of this subsection, the owner of any existing, non-permitted junkyard in the Town shall submit to the Town Planning Board an application for a special use permit and an initial Annual Operating Permit. Existing junkyards shall be brought into compliance with the requirements set forth above in regard to screening and fencing. The Town

Planning Board, at the time of the application, shall designate the maximum allowable time to comply with the screening and fencing requirements. The Town Planning Board shall authorize a special use permit for any existing junkyards only if it finds that the use will not constitute a detriment to the public health, safety, welfare, convenience or property values.

F. Permits.

1. No junkyard shall be established in the Town until a special use permit and an Annual Operating Permit have been applied for and granted in compliance with this Ordinance.
2. Junkyards granted a special use permit by the Planning Board shall not operate without an Annual Operating Permit. The initial Annual Operating Permits for the operation of a junkyard shall be subject to approval by the Town Planning Board. The Annual Operating Permit for a junkyard shall be effective until June 1 of the calendar year after its issuance.
3. An application for renewal of the Annual Operating Permit shall be made to the Code Enforcement Officer thirty (30) days prior to the expiration date of the previous permit. The CEO may not renew the Annual Operating Permit of any junkyard that is not in compliance with the above requirements and any additional requirements established in the special use permit by the Planning Board. The CEO shall approve or deny the renewal of such Annual Operating Permit using the standards in effect in these and other applicable regulations and any conditions in the special use permit, after payment of the required fee.

- G. Revocation for Non-Compliance. Lack of compliance with the above requirements and any of the requirements stipulated in the special use permit shall constitute a violation of this Ordinance. Upon a finding that a junkyard is not complying with terms of its special use permit, the Town Planning Board may, after a public hearing thereon, revoke the special use permit and the Town may seek an action to cause the junkyard to cease operation.

In addition, the provisions of General Municipal Law § 136 are hereby adopted by reference and shall apply to all automobile salvage operations in the Town of Canton.

§ 70-65. Small Rural Business.

Updated 6/14/10

- A. Definition: A retail business or repair facility or personal and professional services, such as, but not limited to dentist, doctor, chiropractor, attorney or accountant, compatible with the surrounding neighborhood.
- B. In addition to meeting the minimum yard and lot coverage requirements, any Small Rural Business shall be subject to the following limitations:
 - 1. The Town Planning Board shall, in addition to the site plan review criteria specified elsewhere in this section, specifically consider the following in evaluating a small rural business proposal. Evidence of such additional consideration shall be set forth in writing as part of the determination record issued by the Town Planning Board for the proposed use.
 - a. Compatibility. The use shall be of such location, size and character that will be in harmony with the appropriate and orderly development of the neighborhood in which it is situated and will not be detrimental to the orderly development of adjacent districts and uses.
 - b. Effect on Adjacent Uses. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the property development and use of adjacent land and buildings or impair the value thereof.
 - 2. The owner of the business shall be the same as the owner of the lot of record.
 - 3. The total number of employees, including owner(s) shall not exceed ten (10) persons.
 - 4. Businesses that will emit State-threshold levels of dust, smoke or fumes shall obtain air quality permits from the Regulatory Affairs Office of the NYS Department of Environmental Conservation prior to submitting an application.
 - 5. Off-street parking shall be provided for all residents, customers and/or employees in compliance with the provisions of §70-32 and Appendix A of this local law. As may be required, such uses shall make adequate provisions for any necessary off-street loading.
 - 6. Signage shall meet the standards set forth in §70-42 of this local law.
 - 7. As may be applicable petroleum bulk storage permits shall be

obtained from the NYS Department of Environmental Conservation prior to submitting an application for small rural business.

8. Hours of operation may be specified in the Special Use Permit.

§ 70-66. Wireless Communications Facilities.

Adopted 9/14/98, Updated 6/14/10

A. Definitions.

The following words and phrases when used in this article shall have the meanings set forth in this section unless the context indicates otherwise:

1. "Code Enforcement Officer" means the municipal officer charged with issuing building permits or enforcing the zoning law of the Town of Canton.
2. "Person" shall mean any individual, corporation, limited liability company, joint venture, public benefit corporation, partnership, limited liability partnership, association, trust or estate and any other entity, public or private, however organized.
3. "Wireless service" means the provision of personal wireless services, including the provision of commercial mobile services, unlicensed wireless services or specialized mobile radio services, which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934. "Unlicensed wireless service" means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.
4. "Antenna facility location plan" shall mean a rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the applicable ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.
5. "Antenna facility location plan review" shall mean the applicable review by the Town of Canton Planning Board.
6. "Antenna facility" means any facility used in connection with the provision of wireless services, including but not limited to, antennas, transmitters, ancillary telecommunications equipment, wireless telecommunications. Television signal receivers at single family residences are exempt from permit requirements.

7. "Telecommunication tower" means any freestanding tower, guyed tower, mono-pole or similar structure used for the provision of wireless services including ancillary telecommunications equipment required to integrate such facility into an existing or proposed wireless network.

B. Permits.

1. Permit requirements. No person who provides wireless service shall commence the placement, construction or modification of an antenna facility without first having obtained a special permit from the Planning Board and a building permit from the Code Enforcement Officer.
2. Permit review procedures. Upon receipt of a complete application for permission to place, construct or modify an antenna facility, the Code Enforcement Officer shall forward, within fifteen (15) business days, the application for a minor or major antenna facility to the Planning Board for Special Permit and Site Plan Review.

C. Major and Minor Antenna Facilities.

1. "Minor antenna facility" means any wireless facility installed on, in or to an existing building or other existing structure, including but not limited to, an existing tower, pole, other utility tower or pole, smokestack, steeple, water tank, billboard or other signage, or street light, comprised solely of antennas and ancillary telecommunications equipment which do not extend in excess of twenty (20) feet above the highest point of the existing building or structure on which the minor antenna facility is installed. Section D of this article shall apply. Special Permit and Site Plan Review are required.
2. "Residential zoning district minor antenna facility" is subject to the standards applicable to the placement of an antenna facility pursuant to section D and E of this article. Special Permit and Site Plan Review are required.
3. "Major antenna service facility" means any antenna facility that is not a minor antenna facility. It is subject to the standards applicable to the placement of an antenna facility pursuant to section D and E of this article. Special Permit and Site Plan Review are required.

D. Standards for antenna facility location plans.

Every antenna facility location plan shall demonstrate compliance with each of the following standards:

1. The antenna facility complies with any applicable regulations promulgated by the Federal Communications Commission, including regulations regarding radio-frequency emissions.
2. The antenna facility is placed, designed and finished in a manner which minimizes its visual impact on surrounding properties.
3. The antenna facility is the minimum height above grade necessary for the provision of the wireless service within the Town of Canton.
4. The antenna facility is of sufficient mechanical and electrical design to allow for the co-location of at least one additional antenna facility or the co-location of municipal wireless service.
5. The antenna facility minimum set back from all boundaries shall be the distance of the height of the antenna, including support structure.
6. The antenna facility, including support structure, shall not exceed a height of one hundred eighty (180) feet, not including lightning rod.

E. Special Permit Criteria.

1. Co-Location. Where application proposes construction of a major antenna facility which will be utilized by only one provider of wireless services and no other communications antennas of other wireless service providers are proposed to be installed on the major antenna facility, it must be demonstrated that construction of a minor antenna facility instead of the major antenna facility or co-locating with another major or minor antenna facility is not technologically and commercially feasible.
2. Aesthetics. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:
 - a. The Planning Board may require a mono-pole or guyed tower (if sufficient land is available to applicant) instead of a freestanding communications tower.
 - b. The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the communications tower. Existing onsite trees and vegetation shall be preserved to the maximum extent possible.
 - c. The Planning Board may require the applicant to show that it has made good faith efforts to co-locate on existing towers or other available and appropriate structures.

- d. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Towers shall be painted a galvanized finish or matte gray unless otherwise required by the FAA.
 - e. No tower shall contain any advertising devices.
3. Traffic, Access and Safety.
- a. A road turnaround and one parking space shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made.
 - b. All communications towers and guy anchors, if applicable, shall be enclosed by a fence or structure not less than eight (8) feet in height. See §70-36-B & C.
 - c. The applicant must comply with all applicable State and Federal Regulations including but not limited to FAA and FCC regulations.
 - d. Signage shall be provided, permanently affixed to the structure and as visible as practicable from the access approach, providing the name and address of the facility operator and providing emergency contact telephone number.
 - e. The owner of the facility shall dismantle the communications facility in its entirety within ninety (90) days of the cessation of operations at the tower.

F. Radio Frequency Effects. The Town of Canton recognizes that federal law prohibits the regulation of cellular and PCS communications towers based on the environmental effects of radio frequency emissions where those emissions comply with the FCC standards for those emissions.

G. Antenna Facility Location Plan Approval. Upon finding that a proposed major or minor antenna facility complies with all standards for antenna facility location plan review, the Planning Board shall issue its approval in accordance with the general Town Law and transmit a written copy of such approval to the Code Enforcement Officer. Upon receipt of such approval, the Code Enforcement Officer shall issue a permit for the wireless service facility within fifteen (15) business days, unless other local approvals are necessary.

§ 70-67. Transfer Stations / Recycling Facility.

Adopted 3/11/03

No person shall establish, operate or maintain a transfer station and/or recycling facility in any area of the Town until a special use permit has been authorized by the Town Planning Board and the operator has obtained a NYSDEC Operating Permit. All transfer stations and/or recycling facilities shall comply with the following requirements.

- A. Location. Unless specifically varied by the Board of Appeals, the setback requirements shall apply to all transfer stations and/or recycling facilities: Said use shall not be located within:
 - 1. Two hundred fifty (250) feet from the center of any highway.
 - 2. Two hundred fifty (250) feet from any body of water and shall have a twenty-five (25) foot vegetative barrier from said body of water.
 - 3. Two hundred fifty (250) feet from the property line of any adjoining parcel.
- B. Operations. All transfer operations shall be contained within a building (s). Recycling may be allowed within weather protected waste bins. A fence shall be erected that restricts vehicle access to the site, and shall have a gate, which shall be closed and locked except during the working hours of said use. Such fence shall not be erected nearer than one hundred (100) feet from the centerline of a public highway. All transfer and recycling materials shall be stored within the setback boundaries except during transportation of same in the reasonable course of the business.
- C. Access by Public to Location.
 - 1. Entrance locations must have clearly readable signs.
- D. Permits.
 - 1. No transfer station or recycling facility shall be established in the Town until a special use permit and an Operating Permit from the NYSDEC has been applied for and granted in compliance with this Local Law.
 - 2. A current Operating Permit must be obtained from the NYSDEC and a copy sent to the Code Enforcement Office. The Code Enforcement Office must be notified immediately of any changes in the DEC Operating permit.
- E. Revocation for Non-Compliance. Lack of compliance with the above requirements and any of the requirements stipulated in the special use permit shall constitute a violation of this Ordinance. Upon a

finding that a transfer station or recycling facility is not complying with terms of its special use permit, the Town Planning Board may, after a public hearing thereon, revoke the special use permit and the Town may seek an action to cause the transfer station or recycling facility to cease operation.

§ 70-68. Small WECS Standards

Updated 6/13/16

- A. Applications for Small WECS special use permits shall include:
1. Name, address and telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent, as well as the original signature of the applicant authorizing the agent to represent the applicant.
 2. Name, address and telephone number of the property owner.
 3. Address of the proposed tower site, including Tax Map section, block and lot number.
 4. Site plan of the tower site, including but not limited to showing the location of the tower in relation to other structures and lot lines, topography of the site, location of trees and other landscape elements.
 5. Ownership and land use information within a one thousand (1,000) foot radius of the location proposed for each tower.
 6. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 7. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the electrical code.
 8. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
 9. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electric generator, unless the applicant does not plan to connect the system to the electric grid and so states in the application.
 10. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual

screening incorporated into the project that is intended to lessen the system's visual prominence.

B. Small WECS Review Process.

1. Applicants shall have a pre-applicant meeting with the Town Planning Board or with any consultants retained by the Planning Board for application review.
2. The Planning Board shall hold at least one (1) public hearing for site plan review on the application. Notice shall be given by first class mail to property owners within one thousand (1000) feet of each proposed Small WECS and published in the Town's official newspaper no less than five (5) or more than twenty (20) days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required.
3. The Planning Board, in conduct of its site plan and special permit review, shall evaluate the proposal in light of the special standards provided for such developments as identified in § 70-49 and herein this section above. It shall approve, disapprove or issue a conditional approval in furtherance of such standards.
4. The fee schedule of the Town is amended to include the following fees for Small WECS.
 - a. Non-refundable application fees shall be as follows:
 1. Small WECS: \$150.00 per Small WECS.
 - b. Building Permits. The Town of Canton believes the review of building and electrical permits for wind energy facilities requires specific expertise for those facilities. Accordingly for such facilities, an administrative fee of \$25.00 per permit request shall be charged for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. The Town and the applicant shall enter into an agreement for an inspection and/or certification procedure for these unique facilities. The Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties, document handling and storage.

- c. Nothing in this Local Law shall read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the Town of expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

ARTICLE IX
Administration and Enforcement

§ 70-69. Enforcement.

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the Code Enforcement Officer. He/She shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

§ 70-70. Duties of the Code Enforcement Officer.

- A. Administer the zoning law. The Code Enforcement Officer shall review all applications for building permits and, if the minimum requirements of this chapter are met, he/she shall issue a ministerial permit. If the applicant's plans do not meet the zoning requirements, he/she must deny the permit. The Code Enforcement Officer may not use discretionary judgment. His duties are of a ministerial nature. He/she must enforce the letter of the law.
- B. Referral to the Zoning Board of Appeals. An applicant, after he/she has been denied a building permit, may appeal the Code Enforcement Officer's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Code Enforcement Officer shall notify the Chairperson of the Zoning Board of Appeals of the request and forward all necessary supporting information to the Zoning Board of Appeals.
- C. Referral to Town Board and Planning Board. Any application for a special permit or change of zoning use shall be forwarded by the Code Enforcement Officer to the Town Board or the Chairperson of the Town Planning Board, whichever is appropriate, along with all supporting information.
- D. Certificate of compliance.
 - 1. No land shall be occupied and no building hereafter erected, altered or extended or shall be used or changed in use until a certificate of compliance shall have been issued by the Code Enforcement Officer. For previously existing construction, the Code Enforcement Officer may, upon request, issue such a certificate if he determines that the use

of the building in question meets the requirements of this chapter

2. A certificate of compliance shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter and/or to the plot or site plan, and/or the purpose and description of which the permit was issued. The Code Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of compliance has been applied before issuing such certificate. Such inspection shall be made within ten (10) working days, upon notification from the applicant that the project for which a permit was granted is completed.

E. Hazardous situation. Upon determination by the Code Enforcement Officer that a hazardous situation exists, the Code Enforcement Officer has the authority to declare that such exists and that it is illegal and shall be abated by securing , repairing or rehabilitating or by demolishing in accordance with the following:

1. Notice shall be served on the owner or his/her agent, as determined by the tax records to correct the hazard immediately; or
2. If the Building Inspector finds that there is actual and immediate danger of failure or collapse so as to endanger life or health, such notice shall also require the building, structure, condition or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and a certificate of compliance is issued; or
3. In cases of emergency which, in the opinion of the Building Inspector or Town Board involve imminent danger to human life or health, he/she shall promptly cause such building, structure, condition or portion thereof to be made safe or removed. For this purpose, he/she may at once enter such structure or land on which it stands, or abutting land or structure, with such assistance and at such cost as may be necessary. He/she may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and, for this purpose, may close a public or private right-of-way.
4. In case the owner, agent or person in control cannot be found within the stated time limit or such owner, agent or person in control shall fail, neglect or refuse to comply with notice, the Town Attorney shall be advised of all the facts in the case and shall institute the appropriate action in the courts to compel compliance.

5. Costs incurred under Subsection E(3) and (4) shall be paid by Town of Canton. Such costs shall be charged to the owner of the premises involved and shall be added to said owners tax bill.
- F. Enforcement procedures. Upon determination by the Code Enforcement Officer that a violation of this chapter exists, he/she shall send written notice to the last known owner of record of the property, as determined by the assessment records, informing said owner of the violation of specific provisions of this chapter and stating that action is to be taken by said owner to remove such violation in twenty (20) days or time stated in section 7043c; or proceedings to compel compliance with the chapter will be instituted. Each week a violation continues shall constitute a separate additional violation. Note: see 70-5 for penalties for offenses.
- G. Report to Town Board. A monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.
- H. Public record. The Code Enforcement Officer shall file all permit actions with the Town Clerk. per §70-13b of this local law.
- I. Environmental review. The Code Enforcement Officer shall conduct an initial screening of all applications for environmental impact and shall, where indicated, refer applications to the appropriate board as listed in §70-90 for state environmental quality review processing.

ARTICLE X Planning Board

§ 70-72. Appointment of members.

Updated 4/13/09

- A. The Town Board authorizes the appointment of a five member Planning Board as more fully described in Town Law, § 271. At least one (1) member shall be a person engaged in agricultural pursuits as defined in Town Law, § 271, Subsection 2. Terms of all Planning Board members shall be staggered as the law requires.

- B. The Town Board of the Town of Canton hereby establishes three (3) alternate positions to the Planning Board pursuant to the authority granted under Section 271 of the Town Law.

The Town Board, after successful passage of this Law and filing with the Department of State, shall appoint three (3) alternate members to the Planning Board, to serve until the passage of this Law until December 31, 2010.

The Town Board, at its organizational meeting, shall appoint three (3) alternate members for an annual term. The Town has the authority to make these appointments by Resolution. The Town also has the authority to fill any vacancy created in the alternate member positions by Resolution.

The Chairman of the Planning Board may designate an alternate member to substitute for a member when such member is unable to participate due to a conflict of interest on an application or matter pending before the Planning Board. When so designated, the alternate member shall possess all powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial meeting of the Planning Board at which the substitution is made. Said alternate member shall continue to serve on all decisions regarding the matter of appointment by the Chairman.

§ 70-73. Chairman; rules; expenses.

- A. The Town Board may select a Chairperson of the Planning Board or, on failure to do so, the Planning Board shall elect a Chairperson from its own members.

- B. The Planning Board may adopt rules or bylaws for its operation

pertaining to: meeting date, frequency of meetings, time of meetings, etc.

- C. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses, including the means for the Planning Board to maintain a written record of its meetings and public hearings.
- D. All decisions shall be by at least a majority of the full membership [three (3)]. In those cases involving a referral recommendation by the County Planning Board, a majority plus one vote of the full membership [four (4)] shall be required to override the County Planning Board decision. In all cases, disapproval can be rendered with a simple majority vote of the full membership.
- E. The Planning Board may petition the Town Board to replace a member due to excessive absence or inactivity.

§ 70-74. Functions.

The function of the Planning Board shall be to:

- A. Prepare or change a Comprehensive Land Development Plan for the Town.
- B. Review and comment on all proposed code amendments.
- C. Conduct site plan review as authorized by Town Law §274a and presented in Article VII of this chapter.
- D. Review and grant or deny applications for special permits including site plan review as authorized by this chapter.
- E. Render assistance to the Zoning Board of Appeals on its request.
- F. Research and report on any matter referred to it by the Town Board.
- G. Make investigations, maps, reports and recommendations in any matter related to planning and development as it seems desirable, provided that expenditure of the Board does not exceed appropriations (Town Law, §275).
- H. SEQR review as required in §70-90 of these Regulations.
- I. Referral to County Planning Board as required by 239m of the General Municipal Law.

ARTICLE XI
Zoning Board of Appeals; Variances

§ 70-76. Appointment of members.

Updated 4/13/09

- A. The Town Board authorizes the appointment of a five member Zoning Board of Appeals as more fully described in Town Law §267. Terms of the Zoning Board of Appeals shall be staggered five year (5) terms appointed by the Town Board.

- B. The Town Board of the Town of Canton hereby establishes three (3) alternate positions to the Zoning Board of Appeals pursuant to the authority granted under Section 267 of the Town Law.

The Town Board shall appoint the original three (3) alternate members at its next regularly scheduled meeting after the Law has been filed with the Department of State. Those three (3) alternate members shall serve until December 31, 2009.

The Town Board, at its organizational meeting, shall appoint said alternate members for an annual term. The Town has the authority to make these appointments by Resolution. The Town also has the authority to fill any vacancy created in the alternate member positions by Resolution.

Should the Town board fail to make annual appointments at its organizational meeting, said previously appointed alternate members shall serve until said position is filled or until a vacancy occurs.

§ 70-77. Chairman; rules; expenses.

Updated 6/13/00

- A. The Town Board may select a chairperson of the Zoning Board of Appeals or, on failure to do so, the Zoning Board of Appeals shall elect a Chairperson from its own members.

- B. The Zoning Board of Appeals may adopt rules and bylaws for its operation pertaining to: meeting date, frequency of meetings, time of meeting, etc.

- C. The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses, including the means for the

Zoning Board of Appeals to maintain a written record of its meetings.

- D. All decisions shall be by at least a majority of the full membership [three (3)]. In those cases of a referral recommendation by the County Planning Board, a majority plus one vote of the full membership [four 4] shall be required to override the County Planning Board decision. In all cases, disapproval can be rendered with a simple vote of the full membership.
- E. The Zoning Board of Appeals may petition the Town Board to replace a member due to excessive absence or inactivity.
- F. Alternate members may serve when there is a conflict of interest with regard to a member of the Zoning Board of Appeals, and also when a member of the Zoning Board of Appeals is unavailable to fulfill his or her duties.

§ 70-78. Functions.

Functions of the Zoning Board of Appeals shall be:

- A. Interpretation. Upon appeal from a decision by the Code Enforcement Officer, the Zoning Board of Appeals shall decide any question involving interpretation of any provision of this chapter.
- B. The Board of Appeals, on appeal from the decision or determination of the code enforcement officer as provided for in *274-a and*277 of New York state town law, shall have the power to grant either use or area variances, as defined herein.

§ 70-79. Requests for variances.

All requests for variances shall be made to the Zoning Board of Appeals after denial of a building permit by Code Enforcement Officer.

§ 70-80. Area Variance Policy.

- A. "Area Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning of regulations.

- B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment of the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall consider:
 - 1. whether an undesirable change will be produced in the character of the neighborhood or a determinant to nearby properties will be created by the granting of the area variance;
 - 2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - 3. whether the requested area variance is substantial;
 - 4. whether the proposed variance will have an adverse effect on impact on the physical or environmental conditions in the neighborhood or district; and
 - 5. whether the alleged difficulty was self created, which consideration shall be relevant to the decision of the board of appeals, but not necessarily preclude the granting of the area variance.

- C. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

§ 70-81. Use Variance Policy.

A. "Use Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

B. No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located.

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self created.

C. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community

§70-82. Imposition of Conditions.

The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 70-83. Variance Procedure.

- A. Applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Code Enforcement Officer.
- B. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.
- C. Upon receipt of the completed application, the Zoning Board of Appeals shall:
 - 1. Schedule a public hearing.
 - 2. Arrange publication of notice of the public hearing as described in §7084 below.
 - 3. Refer the application the County Planning Board as required by General Municipal Law §239, if required.
- D. Within sixty-two (62) days of the public hearing, the Zoning Board of Appeals shall render a decision. If the application was referred to the County Planning Board, a copy of the Zoning Board of Appeal's findings and decision must be sent to the County Planning Board.

§70-84. Public Hearing.

The Board shall fix a reasonable time for the hearing of appeal not to exceed sixty (60) days from date of receipt of application by the Zoning Board of Appeal, or sixty-two (62) days where cases are referred to the County Planning Board, and shall give due notice of the time set for the hearing to the applicant. Public notice shall be by the publication of a notice, at least five (5) days prior to public hearing, in the official newspaper of the Town pursuant to law, and shall briefly describe the nature of the appeal and the time and place of the hearing.

§ 70-85. Meetings of Board.

- A. The Zoning Board of Appeals shall hold meetings at the call of the Chairperson or at the request of three (3) or more members.
- B. All votes of the Zoning Board of Appeals shall be taken by roll call.
- C. In accordance with General Municipal Law, §809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- D. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- E. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney and request the Town Attorney to attend its meetings.
- F. All meetings of the Zoning Board of Appeals shall be open to the public.
- G. The Zoning Board of Appeals shall keep minutes of all of its meetings. The Town Board shall provide a secretary for the Zoning Board of Appeals.
- H. The Zoning Board of Appeals shall make factual record of all its proceedings, including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be accurate but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the Secretary to the Board.

ARTICLE XII
New York State Required Regulations

§ 70-89. Referral of Actions to County Planning Board.

A. Required referrals.

1. The Zoning Enabling Laws, under General Municipal Law §239m, require that any of the following local zoning actions must be referred to the County Planning Board prior to action by the local board. Any proposal for a special permit, variance, site plan approval, change in the Zoning Law text or Map (rezoning, amending the Zoning Law) which would affect real property lying within a distance of five hundred (500) feet from the boundary of:
 - a. Any town.
 - b. Any village.
 - c. Any existing or proposed county or state park.
 - d. Any right-of-way of any county or state road.
 - e. Any stream or drainage channel owned by the county or the state.
 - f. Any existing or proposed county or state owned land on which a public building or institution is situated.
2. These actions must be referred to the County Planning Board, which shall have thirty (30) days from the date of county receipt of a full statement to take action on the matter. By mutual agreement of the county and the municipality, such a thirty (30) day period may be extended.

B. Effect of review.

1. If the county approves a referral, then the Zoning Board of Appeal's or other local board's decision is governed by a majority vote.
2. If the county disapproves or approves subject to stated conditions or modifications, the local board shall not act contrary to the county except by a majority plus one vote.

C. Final decision of local board.

The local board must send a copy of its final decision and reasons for such decision on a county referral case to the County Planning Board within thirty (30) days after final action by the local board.

§ 70-90. State Environmental Quality Review. (SEQR)

- A. The State Environmental Quality Act requires that local governments examine the environmental impact of all actions they permit, fund or construct. Article VIII and Part 617 of Title 6 of the New York Codes, Rules and Regulations are hereby adopted by reference.
- B. For zoning action reviewed by the town, the following bodies may be lead agency.
 - 1. Zoning text amendments: the Town Board.
 - 2. Zoning district amendments: the Town Board.
 - 3. Special permits: the Planning Board.
 - 4. Variances: the Zoning Board of Appeals.
- C. If in the opinion of the lead agency, after review of the environmental assessment form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a draft environmental impact statement. Review, notice and action on the Environmental Impact Statement shall be conducted according to Part 617.

§ 70-91. Agricultural Data Statement.

- A. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by the Town Board, Planning Board, or Zoning Board of Appeals pursuant to this article, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district shall include an agricultural data statement. The Town Board, Planning Board, or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning farm operations within such agricultural district. the information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.
- B. Agricultural data statement; notice provision. Upon the receipt of such application by the Planning Board, Zoning Board of Appeals, or Town Board, the clerk of such board shall mail written notices of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a

description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation of the said project. The cost of mailing said notice shall be borne by the applicant.

- C. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred (500) feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the proposed project relative to the farm operations identified in the agricultural data statement.

§ 70-92. Amendment; Required Referral.

Updated 6/13/16

- A. Authority of Town Board. The Town Board may on its own motion, and after public hearing, amend, supplement, repeal or change the regulations and applicable standards of this Local Law.
- B. Planning Board Role. The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions or applicable standards of this Local Law.
- C. Hearing. Before any amendment, supplement or change is made to this Local Law, there shall be a public notice and hearing as required by law. Notice of the hearing shall be provided via the official Town newspaper and the Town website. Such hearing may be held by the Town Board, or jointly with the Town Planning Board on request of the Town Board. A majority vote of the members of the Town Board shall be required to amend this Local Law, except in the instance of a protest petition as described following.
- D. Protest. If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective

except by the favorable vote of at least a majority plus one of the members of the Town Board.

- E. Referral of Proposed Amendments to Town Planning Board. All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be a recommendation of approval of the proposed amendment.
- F. Referral of Amendments to County Planning Board. All amendments that would affect real property within the jurisdictional area set forth in §239-m of General Municipal Law shall be referred to the County Planning Board before final action is taken, as set forth in Section 38 of this Ordinance.

ARTICLE XIII
Article 78 Procedures

§ 70-93 Article 78 Review.

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the town, may apply to the Supreme Court for review by a proceeding under article seventy-eight (78) of the civil practice law and rules. Such proceeding must be instituted within thirty (30) days after the filing of a decision of the board in the office of the Town Clerk.

Previous Revision 2/1/9, 3/3/97, 3/6/97,3/17/97, 3/24/97, 3/31/97, 4/8/97, 6/9/97, 9/14/98

AMENDMENTS TO ZONING CODE

ZONING LAW PASSED BY BOARD 7/8/97
edited for errata 11/12/97

PASSED BY BOARD 2/10/98 edit 3/17/98
Update:

§ 70-44. Storage Restrictions.

No boats, campers, travel trailers, recreational vehicles, unregistered motor vehicle or unlicensed motor vehicle shall be parked or stored in a front yard. These stored vehicles must be placed at least a minimum of ten (10) feet from any principal or other accessory building or property line.

PASSED BY BOARD 9/14/98
New Section:

§ 70-66 Wireless Communications Facility.

PASSED BY THE BOARD 7/9/02
Update:

§ 70-42 Signs.

PASSED BY THE BOARD 3/11/03
Update:

§ 70-24 Rural Zone.

§ 70-25 Commercial Zone.

§ 70-27 Planned Unit Development (PUD).

§ 70-63 Home Occupations.

§ 70-64 Junkyards, Scrap and/or Salvage Operations (with or without Recycling Operations).

New Section:

§ 70-67 Transfer Stations / Recycling Centers.

PASSED BY THE BOARD 11/14/06
Update:

§ 70-36 Fences.

PASSED BY THE BOARD 6/14/10

Update:

§ 70-22 Residential Zone.

§ 70-23 Hamlet Zone.

§ 70-24 Rural Zone.

§ 70-25 Commercial Zone.

§ 70-42 Signs.

§ 70-65 Small Rural Business.

§ 70-66 Wireless Communications Facilities.

PASSED BY THE BOARD 1/14/13

Update:

§ 70-24 Rural Zone.

PASSED BY THE BOARD 5/13/13

Update:

§ 70-22 Residential Zone.

PASSED BY THE BOARD 7/14/14

Update:

§ 70-22 Residential Zone.

PASSED BY THE BOARD 6/13/16

Update:

§ 70-9 Definitions.

§ 70-22 Residential Zone.

§ 70-23 Hamlet Zone.

§ 70-24 Rural Zone.

§ 70-32 Parking.

§ 70-42 Signs.

§ 70-49 Small Wind Energy Conversion system (WECS).

§ 70-59 Special Permit Regulations.

§ 70-60 Airports.

§ 70-68 Small WECS Standards.

§ 70-92 Amendment, Required Referral.