

# **Town Code**

## **Canton, NY 13617**

**Code Enforcement Officer  
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## EDITOR'S NOTES FROM OLD CODE BOOK

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**ARTICLE I****Adoption of Code**

A local law listing the revised and renumbered ordinances and local laws of the Town of Canton included in this Code and providing for the adoption of this Code as the ACode of the Town of Canton@ is presently proposed before the Town Board. Upon final adoption, it will be included here as Article I of this chapter.

**ARTICLE II****Legislation Enacted During First Codification**

During the process of codification, certain substantive revisions, changes and/or additions to various existing ordinances and local laws, and certain complete new local laws, were approved by the Town Board for inclusion in the Code of the Town of Canton. Such amendments and new enactments are noted in the histories of individual chapters as .... . amended (adopted) during codification; see Ch. 1, General Provisions, Art. II.@ In accordance with required statutory provisions, these amendments and new enactments will be adopted separately and are presently proposed before the Town Board for that purpose. Upon final enactment, a complete enumeration of all chapters and sections in the Code involved in such enactments will be included in this Article along with specific dates of adoption.

Chapter/Article	Local Law Number	Adoption Date
Ch. 6, Liability of Town	L.L. No. 1-1976	10-12-76
Ch. 11, Public Records, Access to	L.L. No. 7-1976	10-12-76
Ch. 13, Recreation Commission	L.L. No. 2-1976	10-12-76
Ch. 19, Bingo	L.L. No. 3-1976	10-12-76
Ch. 23, Art. I, General Provisions	L.L. No. 8-1976	10-12-76
Ch. 30, Art. I, Storage, Collection / Disposal	L.L. No. 4-1976	10-12-76
Ch. 30, Art. II, Landfills	L.L. No. 5-1976	10-12-76
Ch. 35, Junkyards	L.L. No. 9-1976	10-12-76
Ch. 45, Peddling and Soliciting	L.L. No. 10-1976	10-12-76
Ch. 53, Snowmobiles	L.L. No. 6-1976	10-12-76

### **ARTICLE III**

#### **Revision of Code**

The Town board adopted a revision of the Town of Canton Code on June 8, 1999. Some chapters were added, some were removed, some were reordered and all were modified in some way or other. Changes are not documented, as there were far too many to note. A new book was published and all changes to this new revision will be documented as they occur.

**Chapter 2**

**ELECTED AND APPOINTED OFFICIALS**

**ARTICLE I  
ELECTED OFFICIALS**

- ▮ 2-1. Elected Official shall consist of:
- ▮ 2-2. Extension of term.
- ▮ 2-3. Mandatory referendum.
- ▮ 2-4. Duties.

**ARTICLE II  
APPOINTMENTS**

- ▮ 2-5. Appointees.
  - ▮ 2-6. Designation of fiscal officer; responsibilities.
  - ▮ 2-7. Duties.
-

**ARTICLE I**  
**Elected Officials**

▮ **2-1. Elected Officials shall consist of:**

- A. Town Supervisor.
- B. 4 Town Board Trustees.
- C. Town Clerk.
- D. Town Highway Superintendent.
- E. Town Justice.

▮ **2-2. Extension of term.**

The term of office of the Town Supervisor, the Town Clerk and the Town Highway Superintendent of the Town of Canton shall be extended from two (2) to four (4) years beginning with the term of office commencing January 1, 1986.

▮ **2-3. Mandatory referendum.**

The mandatory referendum provided by law before the extension of the above-mentioned terms at the general elections was held November 8, 1983, for the approval or disapproval by eligible voters of the Town of Canton.

▮ **2-4. Duties**

The duties of the Town Elected Officials are pursuant to New York State Law.



## **Article II Appointments**

### **▮ 2-5. Appointees.**

Appointed offices are: Town Assessor, Town Attorney, Department Supervisors, Town Fire Wardens, Town Planning Board members.

Town Board=s appointments: Town Board of Ethics and Town Zoning Board of Appeals members.

### **▮ 2-6. Designation of fiscal officer; responsibilities.**

- A. The Supervisor or the appointee of the Town Board is designated the fiscal officer, who shall certify the payroll and respond to requests, for an itemized record setting forth the name, address, title and salary of every officer or employee of the agency, pursuant to New York State Town Law # 125.
- B. The fiscal officer shall make the payroll items listed above available to any person pursuant to the requirements of the New York State Freedom of Information Law.

### **▮ 2-7. Duties.**

Duties of the Town Appointees are pursuant to New York State Law.

### Chapter 3

## DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES

- ▮ 3-1. Legislative intent.
- ▮ 3-2. Definitions.
- ▮ 3-3. Duty to provide for defense; exception.
- ▮ 3-4. Certain actions not covered; review of settlement by Town Attorney; filing and certification of judgment.
- ▮ 3-5. Conditions for defense.
- ▮ 3-6. Extension of benefits to certain employees restricted.
- ▮ 3-7. Effect on insurers.
- ▮ 3-8. Effect on pending actions.
- ▮ 3-9. Construal.

### GENERAL REFERENCES

Code of Ethics - See Ch. 4.

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- ▮ 3-1. Legislative intent.

The purpose of this chapter is to provide legal and financial protection for those individuals serving the Town of Canton from losses which may be brought against them in their individual capacity for actions taken while in the performance of their official duties and responsibilities. In enacting this chapter, the Town Board finds that the State of New York has enacted similar provisions for the legal and financial security of its officers and employees, and further finds that such security is also required for local personnel. By enactment of this chapter, the Town Board does not intend to limit or otherwise abrogate any existing right or responsibility of the town or its employees with

regard to indemnification or legal defense. It is solely the intent of this chapter to provide similar coverage for local employees as is presently provided for state employees, so as to continue to attract qualified individuals to local government service.

▪ **3-2. Definitions.**

As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

EMPLOYEE - Any person holding a position by election, appointment or employment in the service of the Town of Canton, whether or not compensated, or a volunteer expressly authorized to participate in a municipally sponsored volunteer program, but shall not include an independent contractor. The term ~~A~~employee@ shall include a former employee, his estate or judicially appointed personal representative.

▪ **3-3. Duty to provide for defense; exception.**

- A. Upon compliance by the employee with the provisions of ' 2-5 of this chapter, the town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties, or which is brought to enforce a provision of 42 U.S.C. ' 1981 or 1983. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Town of Canton.
- B. Subject to the conditions set forth in Subsection A of this section, the employee shall be entitled to be represented by the Town Attorney; provided, however, that the employee shall be entitled to representation by private counsel of his choice in any civil judicial proceeding whenever the Town Attorney determines, based upon his investigation and review of the facts and circumstances of the case, that representation by the Town Attorney would be inappropriate, or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of his choice. The Town Attorney shall notify the employee in writing of such determination. The Town Attorney may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. If the employee or group of employees is entitled to representation by private counsel under the provisions of this section, the Town Attorney shall so certify to the Town Board. Reasonable

attorneys' fees and litigation expenses shall be paid by the town to such private counsel from time to time during the pendency of the civil action or proceeding subject to certification that the employee is entitled to representation under the terms and conditions of this section by the head of the department, commission, division, office or agency in which such employee is employed and upon the audit and warrant of the Town Supervisor. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

- C. Where the employee delivers process and a request for a defense to the Town Attorney as required by ' 2-5 of this chapter, the Attorney shall take the necessary steps, including the retention of private counsel under the terms and conditions provided in Subsection B of this section on behalf of the employee, to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

**' 3-4. Certain actions not covered; review of settlement by Town Attorney; filing and certification of judgment.**

- A. The town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his public employment or duties; the duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.
- B. An employee represented by private counsel shall cause to be submitted to the Town Board any proposed settlement which may be subject to indemnification by the town and, if not inconsistent with the provisions of this chapter, the Supervisor shall certify such settlement and submit such settlement and certification to the Town Attorney. The Attorney shall review such proposed settlement as to form and amount and shall give his approval if, in his judgment, the settlement is in the best interest of the town. Nothing in this section shall be construed to authorize the town to indemnify or save harmless an employee with respect to a settlement not so reviewed and approved by the Town Attorney.
- C. Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail, within thirty (30) days of the date of entry or settlement, upon the Supervisor; and if not inconsistent with the provisions of this chapter, such judgment or settlement shall be certified for

payment by such Supervisor. If the Attorney concurs with such certification, the judgment or settlement shall be paid upon the audit and warrant of the Town Supervisor.

▪ **3-5. Conditions for defense.**

The duty to defend or indemnify and save harmless provided by this chapter shall be conditioned upon delivery to the Town Attorney or his assistant, at his office, by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within ten (10) days after he is served with such document, and the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the town based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the town provide for his defense pursuant to this chapter.

▪ **3-6. Extension of benefits restricted.**

The benefits of this chapter shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party, nor shall any provision of this chapter be construed to affect, alter or repeal any provision of the Workers' Compensation Law.

▪ **3-7. Effect on insurers.**

The provisions of this chapter shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

▪ **3-8. Effect on pending actions.**

The provisions of this chapter shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.

▪ **3-9. Construal.**

Except as otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the town, or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

## **Chapter 4**

# **CODE OF ETHICS**

## **ARTICLE I Intent**

- 4-1. Statement of legislative intent.
- 4-2. Applicability.

## **ARTICLE II Code**

- 4-3. Definitions.
- 4-4. Conflicts of interest.
- 4-5. Standards of conduct.
- 4-6. Penalties for offenses.

## **ARTICLE III Board of Ethics**

- 4-7. Establishment and membership.
- 4-8. Board to render advisory opinions; confidentiality.
- 4-9. Promulgation of rules and regulations; records.

## **ARTICLE IV Administration**

- **4-10. Distribution of copies.**
  - **4-11. Filing with state.**
  - **4-12. Appropriation for Board of Ethics.**
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## **ARTICLE I Intent**

- **4-1. Statement of legislative intent.**

The Town Board of the Town of Canton recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees, which rules and standards, if observed, can enhance public confidence in local government. It is the purpose of this resolution to implement this objective through the establishment of standards of conduct, to provide for a punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the town's officers and employees as provided herein.

- **4-2. Applicability.**

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest, provisions or procedures prescribed by the statutes of the State of New York and, also, in addition to common law rules and judicial decisions relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

## **ARTICLE II**



## Code

### ▸ 4-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

TOWN - Any board, commission, district, council or other agency, department or unit of the government of the Town of Canton.

TOWN EMPLOYEE - Any officer or employee of the Town of Canton, whether paid or unpaid, whether serving under full-time, part-time or advisory capacity.

### ▸ 4-4. Conflicts of interest.

No town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of the employee=s duties in the public interest.

### ▸ 4-5. Standards of conduct.

- A. No town employee shall accept other employment which will impair the employee=s independence of judgment in the exercise of the employee=s official duties.
- B. No town employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information which the employee has gained by reason of the employee=s official position or authority.
- C. No town employee shall use or attempt to use his/her official position to secure unwarranted privileges or exemptions for themselves or others.
- D. No town employee shall engage in any transaction, as representative or agent of the town, with any business entity in which the employee has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of the employee=s official duties.
- E. The town employee shall not let his/her conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy

his/her favor in the performance of his/her official duties, or that he/she is affected by the kinship, rank, position or influence of any party or person.

- F. Each town employee shall abstain from making personal investments in enterprises which he/she has reason to believe may be directly involved in decisions to be made by him/her or which will otherwise create substantial conflict between his/her duty and the public interest and his/her private interest.
- G. Each town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he/she is likely to be engaged in acts that are in violation of his/her trust.
- H. No town employee employed on a full-time basis nor any firm or association of which such employee is a member nor any corporation, a substantial portion of the stock of which is owned or controlled, directly or indirectly, by such employee shall sell goods and services to any person, firm, corporation or association which is licensed or whose rates are affixed by the town in which such employee serves or is employed.

**▮ 4-6. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any such town employee who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment in the manner provided by law.

### **ARTICLE III Board of Ethics**

**▮ 4-7. Establishment and membership.**

There is hereby established a Board of Ethics, consisting of three (3) members to be appointed by the Town Board, all of whom shall reside in the Town of Canton and shall serve without compensation and at the pleasure of the Town Board of the Town of Canton. A majority of such members shall be persons other than town employees, but membership shall include at least one (1) member who is an elected or appointed town employee of the Town of Canton.

**▮ 4-8. Board to render advisory opinions; confidentiality.**

- A. The Board of Ethics established hereunder shall render advisory opinions to town employees on written request and, upon request of the Town Board, make recommendations to such Town Board as to any amendments of this chapter.
- B. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the town employee be disclosed except to authorized persons and agencies. Such opinion shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.

▮ **4-9. Promulgation of rules and regulations; records.**

Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

## **ARTICLE IV Administration**

▮ **4-10. Distribution of copies.**

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every town employee of this town. Failure to distribute any such copy or failure of any town employee to receive such copy shall have no effect on hi/hers duty in compliance with this code, nor with the enforcement of provisions hereof. The Town Supervisor shall, further, cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the town. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor on the enforcement of the provisions hereof.

▮ **4-11. Filing with state.**

Within thirty (30) days of the adoption of this chapter, the Town Clerk shall file a copy thereof in the office of the State Comptroller.

▮ **4-12. Appropriation for Board of Ethics.**

The Town Board may appropriate money from general town fund for the maintenance of and for personal services to the Board of Ethics, established hereunder.

Such Board of Ethics may not commit the expenditure of town funds except within the appropriations provided herein.

## Chapter 6

### LIABILITY OF TOWN

- **6-1. Written notice of highway defects required.**
  - **6-2. Written notice of sidewalk defects required.**
  - **6-3. Transmittal of notices; corrective action.**
  - **6-4. Record of *notices*.**
  - **6-5. Applicability.**
- 

- **6-1. Written notice of highway defects required.**

No civil action shall be maintained against the Town of Canton, hereinafter referred to as the Atown@, or the Superintendent of Highways of the town, or against any improvement district in the town for damages or injuries to person or property, including those arising from the operation of snowmobiles and all terrain vehicles, sustained by reason of any highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk or the Superintendent of Highways of the town and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway bridge, culvert or any other property owned by the town or any property owned by any improvement district in the town, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Superintendent of Highways of the town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

- **6-2. Written notice of sidewalk defects required.**

No civil action will be maintained against the town and/or the Superintendent of Highways of the town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the town or the Superintendent of Highways of the town pursuant to statute; nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Superintendent of Highways of the town and there was a failure or neglect to cause such defect to be remedied or such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

▪ **6-3. Transmittal of notices; corrective action.**

The Superintendent of Highways of the town shall transmit, in writing, to the Town Clerk, within ten (10) days after receipt thereof, all written notices received by him pursuant to this chapter, and he shall take and document any and all corrective action with respect thereto as soon as practicable.

▪ **6-4. Record of notices.**

The Town Clerk shall keep an index record, in a separate book, of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any town highway, bridge, culvert, sidewalk or any other property owned by the town or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five (5) years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Superintendent of Highways of the town of the receipt of such notice.

▪ **6-5. Applicability.**

Nothing contained in this chapter shall be held to repeal, modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action; nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the town, its officers and employees and/or any of its improvement districts any greater duty or obligation than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

## **Chapter 8**

### **FEES**

#### **ARTICLE I GENERAL FEES**

- 8-1. Board Room Rental.
- 8-2. Court Room Rental.
- 8-3. Copy Fee.
- 8-4. Local Dog Fee.
- 8-5. Certified Copy of Death, Birth or Marriage.
- 8-6. Copy of Code Book.
- 8-6. Copy of Zoning Code Book.
- 8-8. Subdivision of land.
- 8-9. Junk Dealers license.

#### **ARTICLE II CODE BOOK FEES**

- 8-9. Seized dog fees. ( ▸ 16-8-c.)
  - 8-10. Building permit fees. ( ▸ 23-17.)
  - 8-11. Floodplain Development permit. ( ▸ 29-11.)
  - 8-12. Subdivision Fee. ( ▸ 56-9.)
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**ARTICLE I  
GENERAL FEES**

▮ 8-1. Board Room Rental.	\$10.00
▮ 8-2. Court Room Rental.	\$25.00
▮ 8-3. Copy Fee.	\$0.25
▮ 8-4. Local Dog Fee.	\$4.00
▮ 8-5. Certified Copy of Death, Birth or Marriage.	\$10.00
▮ 8-6. Copy of Code Book.	\$30.00
▮ 8-7. Copy of Zoning Code Book.	\$15.00
▮ 8-8. Subdivision of land.	\$2.50
▮ 8-9. Junk Dealers license.	\$25.00

## ARTICLE II CODE BOOK FEES

### ▮ 8-9. Seized dog fees. ( ▮ 16-8-C.)

C. In the event that any dog has been seized or taken into custody by the Dog Warden, its owner shall be required to pay to the Town Clerk the prevailing contractual rate charged by the boarding facility designated by the town plus a fee of 15% of that rate, to cover Town expenses.

### ▮ 8-10. Building permit fees. ( ▮ 23-17.)

Building permit fees are set as follows:

Cost of Construction	Fees
\$0.00 through \$7500.00	\$20.00 minimum
\$7501.00 through 100,000.00	\$20.00 and \$3.00 per \$1,000.00 over \$7,500.00; \$0.03 per \$100.00
\$100,001.00 through \$500,000.00	\$300.00 and \$2.00 per \$1,000.00 over \$100,000.00; \$0.20 per \$100.00
\$500,001 and up	\$1,000.00 and \$1.00 per thousand over \$500,000.00; \$0.10 per \$100.00

### ▮ 8.11. Floodplain Development permit. ( ▮ 29-11.)

A. Fees. All applications for a floodplain development permit shall be accompanied by an application fee. In addition, the applicant shall be responsible for reimbursing the Town of Canton for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than five hundred dollars (\$500.) to cover these additional costs.

**'8.12. Subdivision Fee. ( ' 56-9.)**

A fee to be determined by the Town Board shall be paid to the Town Clerk for credit in the general fund when the final plat is submitted to the Planning Board for action thereon.

## Chapter 9

### PLANNING BOARD

- **9-1. Creation; membership; terms of office.**
- **9-2. Powers and duties.**

### GENERAL REFERENCES

Building construction - See Ch. 23.

Subdivision of land - See Ch. 56.

Zoning - See Ch. 70.

- **9-1. Creation; membership; terms of office.**
  - A. There shall be a Planning Board for the Town of Canton, St. Lawrence County, New York, to be known as the ATown of Canton Planning Board@, consisting of five (5) town members appointed according to the requirements of New York State Town Law.
  - B. The terms of office of the members shall be staggered so as one will be appointed each year for a term of five years.
  - C. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the town board shall appoint the new member for the unexpired term.
  - D. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board or by Local Law.
- **9-2. Powers and duties.**
  - A. Pursuant to the New York State Town Law, the Planning Board is hereby authorized and empowered to approve plats showing lots, blocks or sites with or without streets or highways, within the part of said town outside the limits of any incorporated village, and to pass and approve the development of plats already in the office of the County Clerk, if such plats are entirely or partially

undeveloped. The Planning Board shall act as lead agency for the SEQR review, subdivision review, special permits, periodic review of zoning laws, act on any matter referred to it by the Town Board and may act as lead agency in other matters referred to it by the Town Board.

- B. The Planning Board shall have full power and authority to make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the town as it deems desirable, providing the total expenditures of said board shall not exceed the appropriation provided.

## Chapter 11

### ACCESS TO PUBLIC RECORDS

- 11-1. Purpose and scope.
  - 11-2. Designation of records access officers; responsibilities.
  - 11-3. Location.
  - 11-4. Hours for public inspection.
  - 11-5. Request Procedures.
  - 11-6. Denial of access to records; appeals procedure.
  - 11-7. Fees.
- 

- 11-1. Purpose and scope.
  - A. It is the intent of the Town of Canton to abide by the New York State Freedom of Information Law (FOIL) and the New York State Open Meetings Law.
- 11-2. Designation of access records officers; responsibilities.
  - A. The Supervisor of the Town of Canton is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officers in their respective areas of responsibility:
    - (1) Town Clerk.
    - (2) Town Tax Collector.
    - (3) Town Assessor.
    - (4) Town Budget Officer.
    - (5) Town Highway Supervisor.
    - (6) Town Code Enforcement Officer.

(7) Town Justice Clerk.

(8) Town Historian.

(9) Town Chairman of the Recreation Department.

(10) Town Dog Control Officer.

(11) Any other Department Heads as currently exist or be created.

- B. Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. However, the public shall not be denied access to records through officials who have in the past been authorized to make records of information available. Records access officers shall assure that the records are maintained in an up to date manner.

▸ **11-3. Location.**

Records shall be available for public inspection and copying at the Town of Canton Municipal Building, 60 Main St., Canton, New York.

▸ **11-4. Hours for public**

Requests for public access to records shall be accepted and records produced at the Town Clerk=s Office during all hours regularly open for business.

▸ **11-5. Request Procedure.**

The Town intent is to abide by all the provisions of the New York State Freedom of Information Law (FOIL), so as to provide easy access to accessible records. However, the Town reserves the right that FOIL requests be submitted in writing.

▸ **11-6. Denial of access to records; appeals procedure.**

- A. Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals, as described in *(or by)* the New York State Freedom of Information Law (FOIL).

- B. All appeals shall be handled in the manner described in *(or by)* the New York State Freedom of Information Law (FOIL).

• **11-7. Fees.**

- A. There shall be no fee charged for:
  - (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this chapter.
- B. Other fees shall be as stipulated in the New York State Freedom of Information Law (FOIL).



## Chapter 13

### RECREATION DEPARTMENT

- **13-1. Joint Recreation Committee established; vacancies.**
  - **13-2. Budget request.**
  - **13-3. Contribution to budget.**
  - **13-4. Custodian of funds; powers and duties.**
  - **13-5. Powers and duties.**
- 

- **13-1. Joint Recreation Committee established; vacancies.**

A. There is hereby established a Joint Recreation Committee consisting of two (2) members of the Village of Canton Board of Trustees and two (2) members of the Canton Town Board. Vacancies in the Recreation committee shall be filled in the same manner as the original appointments. The Town appointments shall be made by the Town Supervisor annually. This is in accordance with '244 of the General Municipal Law.

- **13-2. Budget request.**

A. The Director of the Recreation Department and the Joint Recreation Committee shall annually determine its total budget request for the next ensuing fiscal year. It shall, prior to October 1 in each year, present such request to the Town Board and to the Village Board of Trustees. Such request shall contain a detailed statement of anticipated unexpended balances, anticipated revenues, estimated expenditures for capital projects and annual maintenance, proposed salaries of all employees and any other pertinent information that might be required by the Town Board or the Village Board of Trustees to assist them in acting upon such request.

B. Prior to the time for the required public hearing upon the adoption of the general town budget, the Town Board and the Village Board of Trustees shall meet to consider and act upon such request. If the budget is agreed upon by both municipalities, each shall appropriate in its annual budget a sum sufficient to defray the cost of its respective portion of the agreed upon budget.

C. The Town and the Village shall deposit agreed upon amounts in the Recreation Department Account as they are needed. No subsequent deposits by either municipality shall be made unless agreed upon by each municipality. The fiscal year of said Department shall be from January 1 to December 31.

▸ **13-3. Contribution to budget.**

A. Unless notified as provided for herein, the village and town shall contribute equal amounts to the total agreed upon budget request of the Joint Recreation Department.

▸ **13-4. Custodian of funds; powers and duties.**

The Village Clerk of the Village of Canton shall be the custodian of the funds appropriated and belonging to the Joint Recreation Department, and he/she shall have the power and duty to maintain a separate bank account in the village depository for Joint Recreation Department purposes, and to make deposits and withdrawals therefrom upon vouchers audited by the Joint Recreation Committee or a subcommittee thereof. It shall be the duty of said custodian to make an accounting, at the end of each year, of the funds of the Joint Recreation Department and to forward one (1) copy thereof to the Board of Trustees of the Village and one (1) copy thereof to the Town Board.

▸ **13-5. Powers and duties.**

The Joint Recreation Department shall possess all the powers and be subject to all responsibilities of local authorities under Article 13 of the General Municipal Law, and shall particularly have the power to equip, operate and maintain playgrounds, parks and recreation centers, and may construct, maintain and operate, in connection therewith, such facilities as to it may seem proper in the public interest and, for the purposes of carrying out the objects hereof, may employ the necessary personnel, equipment and supplies.

## **Chapter 16**

# **ANIMALS**

## **ARTICLE I Dogs**

- 16-1. Title.
- 16-2. Statutory authority.
- 16-3. Purpose.
- 16-4. Definitions.
- 16-5. Running at large prohibited.
- 16-6. Nuisances.
- 16-7. Dangerous dogs.
- 16-8. Complaint of violation; appearance ticket; seizure; fees.
- 16-9. Abandonment, neglect and abuse.
- 16-10. Penalties for offenses.
- 16-11. Severability.

## **ARTICLE II Animals**

- 16-12. Abandonment, neglect and abuse.
- 

## **ARTICLE I Dogs**

- 16-1. Title.

This Article shall be known and cited as the ADog Control Law of the Town of Canton. New York,@ and shall be numbered Chapter 16, Article I.

▮ **16-2. Statutory authority.**

This Article is enacted pursuant to the provisions of ' 7 and ' 126 of the Agriculture and Markets Law of the State of New York.

▮ **16-3. Purpose.**

The purpose of this Article is to protect the health, safety and well-being of persons and property and to preserve the public peace and good order in the town by establishing certain regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of other residents of the town.

▮ **16-4. Definitions.**

When used in this Article, unless otherwise expressly stated, the following terms shall have the meanings indicated:

DOG ⊆ Includes any dog of either sex and of any age, unless otherwise indicated herein.

DOG WARDEN ⊆ The person appointed by the Town Board of the Town of Canton to assist in the enforcement of this Article. Every dog seized by the ADog Warden@ shall be maintained, redeemed, sold or destroyed in accordance with Article 7 of the Agriculture and Markets Law of the State of New York.

OWNER ⊆ The party purchasing the license for the dog. If the dog is not licensed, the term Aowner@ shall be construed to include any person who at any time owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept, brought or comes within the Town. In the event that the owner of any dog which is found to be in violation of this Article is a minor, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog in violation of this Article.

RUN AT LARGE ⊆ A dog shall be deemed to be Arunning at large@ if it is elsewhere than on the premises of the owner while not under the control of the owner or his agent and without the knowledge, consent or approval of the

owner of such lands.

UNDER CONTROL c A dog shall be deemed to be under control@ when it is under either voice command or a suitable restraining device designed for that purpose.

**16-5. Running at large prohibited.**

No dog shall be knowingly allowed to run at large within the Town of Canton.

**16-6. Nuisances.**

No person being the owner or the agent of the owner of any dog shall knowingly allow such dog to commit any nuisance within the Town of Canton or cause damage to the person or property of others. The following are declared to be public nuisances and are set forth herein for explanatory purposes only and are not to be considered as excluding other types of nuisances, and the establishment of the fact that the owner of a dog has allowed or permitted such dog to commit any of the acts hereinafter prohibited shall be presumptive evidence against the owner or harbinger of such dog that he has failed to properly confine or control said dog:

- A. Engaging in loud howling or persistent barking, crying or whining or so conducting itself in such a manner as to unreasonably and persistently disturb the comfort or repose of any person other than the owner of such dog.
- B. Chasing and/or barking at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog.
- C. Jumping upon, chasing or otherwise harassing any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
- D. Running together in a pack or in any way forming a pack of dogs. For the purpose of this Article, the word Apack@ is hereby defined to mean three (3) or more dogs.
- E. Defecating, urinating, digging on or otherwise damaging public property other than the property of said owner.
- F. No unspayed female dog in heat shall be knowingly allowed to be outside a building or a fenced in area.

▸ **16-7. Dangerous dogs.**

Any dog which shall attack any person or domestic animal within the meaning of Article 7 of the Agriculture and Markets Law of the State of New York shall be dealt with in accordance with Article 7 of said Agriculture and Markets Law.

▸ **16-8. Complaint of violation; appearance ticket; seizure; fees.**

- A. Any person who observes or has knowledge of a dog violating any provision of this Article may file or register a verbal complaint to the Dog Warden specifying the objectionable conduct of the dog, the date thereof, the description of the dog and the name and address, if known, of the owner or other person harboring said dog.
- B. Upon receipt by the Dog Warden of any such complaint or in the event that any dog is found by the Dog Warden to be in violation of any provision of this Article, the Dog Warden may seize and take into custody said dog and may issue and deliver to the owner of said dog an appearance ticket pursuant to § 126 of the Agriculture and Markets Law of the State of New York, detailing the violations and instructing the owner to appear before the Justice Court of the Town of Canton or to answer such appearance ticket by registered or certified mail, return receipt requested, within five (5) days of the date of such violation. If said appearance ticket is disregarded by such person, the Dog Warden or complainant may file an information with said Court, which Court shall then issue a warrant for the arrest of such person.
- C. In the event that any dog has been seized or taken into custody by the Dog Warden, its owner shall be required to pay to the Town Clerk the prevailing contractual rate charged by the boarding facility designated by the town plus a fee of 15% of that rate, to cover Town expenses.

▸ **16-9. Abandonment, neglect and abuse.**

Abandonment, neglect or abuse of any dog is punishable under New York State Agriculture and Markets Law Article 7.

▸ **16-10. Penalties for offenses.**

Upon conviction, a violation of any of the provisions or restrictions of this Article shall be punishable by a fine not exceeding twenty-five dollars (\$25.) for a first violation,

fifty dollars (\$50.) for a second violation and one hundred dollars (\$100.) for each subsequent violation.

‘ **16-11. Severability.**

Should any section or provision of this Article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Article as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## **ARTICLE II**

### **Animals**

‘ **16-12. Abandonment, neglect and abuse.**

Abandonment, neglect or abuse of any animal is punishable under New York State Agriculture and Markets Law Article 126.

## Chapter 19

### BINGO

- **19-1. Applicability.**
  - **19-2. Authorization; license required.**
  - **19-3. Restrictions on conduct of games.**
  - **19-4. Delegation of authority.**
  - **19-5. Penalties for offenses.**
- 

- **19-1. Applicability.**

This chapter shall be applicable to all territory within the limits of the Town of Canton.

- **19-2. Authorization; license required.**

It shall be lawful for any authorized organization, namely, a bona fide religious, charitable, or nonprofit organization of veterans, volunteer fireman and similar nonprofit organizations, upon obtaining a license therefor, as provided by the General Municipal Law, Article 14-H, and rules and regulations adopted by the State Bingo Control Commission pursuant to the State Bingo Control Law, to conduct the game or games of bingo in the territory of the Town of Canton.

- **19-3. Restrictions on conduct of games.**

- A. No person, firm, association, corporation or organization other than an authorized organization, licensed under the provisions of Article 14-H of the General Municipal Law, shall be permitted to conduct such games.
- B. The entire net proceeds of any game shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
- C. Single prizes shall be awarded as allowed by State Law pursuant to Racing and Wagering Sec. 5820.25.



- D. No series of prizes on any one (1) occasion shall aggregate more than the amount allowed by State Law #
- E. No person except a bona fide member of any such organization shall participate in the management or operation of such game.
- F. No person shall receive any remuneration for participating in the management or operation of any such game.
- G. The unauthorized conduct of a bingo game and any willful violation of any provision of this chapter shall constitute and be punishable as a misdemeanor.
- H. No bingo game shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
- I. No authorized organization licensed under the provisions of this chapter shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the bingo control law or from another authorized organization.

▮ **19-4. Delegation of authority.**

The Town Board of the Town of Canton may, pursuant to ▮ 498 of the General Municipal Law, delegate to an officer or officers of such town, designated by the Town Board for such purpose, any of the authority granted to such governing body by said Article 14-H of the General Municipal Law in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearing, the supervision of the operation of the games and the collection and transmission of fees.

▮ **19-5. Penalties for offenses.**

The making of any false statement in any application for a License or in any statement annexed thereto, or any other violation of the provisions of said Article 14-H of the General Municipal Law, or any violation of the terms of such a license shall constitute a misdemeanor and shall subject the offender to forfeiture of license and shall render the offender ineligible to apply for a license for one (1) year thereafter, all pursuant to the provisions of ▮ 495 of the General Municipal Law.

## **Chapter 23**

# **BUILDING CONSTRUCTION**

## **ARTICLE I General Provisions**

- **23-1. New York State Uniform Fire Protection and Building Code.**
- **23-2. Code Enforcement Officer appointment; compensation.**
- **23-3. Conflicts of interest.**
- **23-4. Code Enforcement Officer: powers and duties.**
- **23-5. Administration and Enforcement of the Uniform Fire Protection and Building Code.**
- **23-6. Records and reports.**
- **23-7. Cooperation with other departments.**
- **23-8. Application for building permit.**
- **23-9. Issuance of building permit.**
- **23-10. Performance of work under building permit.**
- **23-11. Revocation of building permit.**
- **23-12. Stop-work orders.**
- **23-13. Right of entry.**
- **23-14. Tests of materials and equipment.**
- **23-15. Appearance tickets and Penalties for offenses.**

## **ARTICLE II Building Permit Fees**

- **23-16. Building permit fees.**

## GENERAL REFERENCES

Access to public records c See Ch. 11.

Subdivision of land c See Ch. 56.

Zoning c See Ch. 70.

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## ARTICLE I General Provisions

### ▸ 23-1. New York State Uniform Fire Protection and Building Code.

The Town Board accepts the provisions of the New York State Uniform Fire Protection and Building Code.

### ▸ 23-2. Code Enforcement Officer: appointment; compensation.

The Town Board may appoint one (1) or more Code Enforcement Officers as the need may appear. The compensation of such Code Enforcement Officer shall be fixed by the Town Board.

### ▸ 23-3. Conflicts of interest.

No Code Enforcement Officer shall engage in any activity inconsistent with his/her duties; nor shall he/she, during the term of his/her employment, be engaged, directly or indirectly, in any building business, in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof within the Town of Canton, except that this provision shall not prohibit the Code Enforcement Officer from engaging in such activities in connection with the construction of a building or structure owned by him and not constructed for sale.

### ▸ 23-4. Code Enforcement Officer: powers and duties.

A. Except as otherwise specifically provided by law, ordinance or regulation, or except as herein otherwise provided, the Code Enforcement Officer shall administer and enforce all the provisions of laws, ordinances and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures; the installation and use of materials and equipment therein; and the location, use, occupancy and maintenance thereof.

B. The Code Enforcement Officer or Town Clerk shall receive applications and the

Code Enforcement Officer shall issue permits for the construction, alteration, removal, conversion and demolition of buildings or structures or parts thereof, and shall examine the premises for which such applications have been received or such permits have been issued, for the purpose of ensuring compliance with the laws, ordinances and regulations governing such building construction.

- C. The Code Enforcement Officer shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance, during the entire course of construction, with the requirements of such laws, ordinances or regulations as may be applicable. The Code Enforcement Officer shall make all inspections that are necessary or proper for the carrying out of his/her duties.
- D. Whenever necessary or appropriate to ensure compliance with the provisions of applicable laws, ordinances or regulations covering building construction, the Code Enforcement Officer may require the performance of tests in the field by experienced professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

▪ **23-5. Administration and Enforcement of the Uniform Fire Protection and Building Code.**

- A. The Code Enforcement Officer is responsible for administration and enforcement of the Uniform Code.
- B. Building Permits shall be required for any work which must conform to the Uniform Code. The application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code. Exceptions to the requirement for building permits may be allowed for:
  - 1. Necessary repairs which do not materially affect structural features;
  - 2. Alterations to existing buildings, provided that the alterations:
    - a. Cost less than \$10,000; and
    - b. Do not materially affect structural features; and
    - c. Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits; and
    - d. Do not involve the installation or extension of electrical systems; and

- e. Do not include the installation of solid fuel-burning heating appliances and associated chimneys and flues; and
- 3. Small noncommercial structures not intended for use by one or more persons as quarters for living, sleeping, eating or cooking, for example, a small storage building.
- C. Certificates of occupancy or certificates of compliance shall be required for all work for which a building permit is required to be issued under subdivision 444.3(b) of the Uniform Code and for all buildings which are converted from one general occupancy classification to another, as such classifications are defined in Part 701 of Title 9 of the OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS.
- D. Provisions shall be made for:
  - 1. Construction inspections where a building permit has been issued, at such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detection systems and exit features;
  - 2. Inspections where a certificate of occupancy or a certificate of compliance is required, prior to its issuance;
  - 3. Fire safety inspections of areas of public assembly defined in Part 606 of Title 9 of the OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS at least once per year;
  - 4. Fire safety inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions;
  - 5. Inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with the Uniform Code.
- E. A system of records of the activities specified in subdivisions 444.3(a) through 44.3(d) of this section of the Uniform Code and of fees charged and collected, if any, shall be established and maintained.

▪ **23-6. Records and reports.**

The Code Enforcement Officer shall keep permanent official records of all

transactions and activities conducted by him, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records, open to public inspection during business hours.

▸ **23-7. Cooperation with other departments.**

The Code Enforcement Officer may request and shall receive, so far as may be necessary in the discharge of his/her duties, the assistance and cooperation Federal, State and Local Officials and of all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

▸ **23-8. Application for building permit.**

- A. No person, firm or corporation shall commence the construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure or cause the same to be done without first obtaining a separate building permit from the Code Enforcement Officer for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.
- B. The application for a building permit shall be made to the Code Enforcement Officer or Town Clerk on forms provided by him and shall contain the following information:
  - 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, if requested by the Code Enforcement Officer.
  - 6. Proposed grading and drainage and stormwater management system, if any.
  - 7. Location, proposed 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.
  14. Location and design of outdoor lighting facilities.
  15. Location of essential services.
  16. General Landscaping plan.
- C. Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Code Enforcement Officer.

▪ **23-9. Issuance of building permit.**

- A. The Code Enforcement Officer shall examine or cause to be examined all applications for permits and plans, specifications and documents filed therewith. he/she shall approve or disapprove the application within a reasonable time.
- B. Upon approval of the application and upon receipt of the legal fees therefor, he/she shall issue a building permit to the applicant upon the form prescribed by him and shall affix his/her signature or cause his/her signature to be affixed thereto.
- C. Types of Approval.
  1. Upon approval of the application, the plans and specifications shall be endorsed with the word "approved." The approved plans and specifications shall be retained in the files of the Code Enforcement Officer. The Building Permit shall be returned to the applicant and shall be

kept at the building site.

2. If the application is modified by the owner, upon approval of the application with modifications, the plans and specifications shall be endorsed with the words "Approved as modified". The approved-as-modified plans and specifications shall be retained in the files of the Building Inspector. A second set shall be required to be endorsed "Approved as modified" and returned to the applicant, to be kept at the job site.
- D. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable building regulations, the Code Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Code Enforcement Officer shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

▪ **23-10. Performance of work under building permit.**

- A. A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of twelve (12) months after the date of its issuance. For good cause, the Code Enforcement Officer may allow a maximum of two (2) extensions for a period not exceeding six (6) months each.
- B. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances or regulations. All work shall conform to the approved application, plans and specifications.

▪ **23-11. Revocation of building permit.**

The Code Enforcement Officer shall revoke a building permit theretofore issued and approved in the following instances:

- A. Where he/she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- B. Where he/she finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.



- C. Where he/she finds that the work performed under the permit is not being performed in accordance with the provisions of the application, plans or specifications.
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Code Enforcement Officer.

▸ **23-12. Stop-work orders.**

Whenever the Code Enforcement Officer has evidence that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances or regulations or not in conformity with the provisions of the application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he/she shall notify the owner of the property or the owner's agent or the person performing the work to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Any such orders and notices shall be in writing and shall state the conditions under which the work may be resumed, and may be served upon a person to whom it is directed, either by delivering it personally or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.

▸ **23-13. Right of entry.**

Right of entry requires permission of the owner or agent, a court order, or evidence of an emergency.

▸ **23-14. Tests of materials and equipment.**

Whenever there is evidence that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances or regulations, the Code Enforcement Officer may require the same to be subjected to tests in order to furnish proof of such compliance.

▸ **23-15. Appearance tickets, Penalties and Abatements for offenses.**

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use or occupy or maintain any building or structure or portion thereof in violation of any provisions of this chapter, or to

fail in any manner to comply with a notice, directive or order of the Code Enforcement Officer, or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

- B. Any person who shall fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building, who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Code Enforcement Officer made thereunder, shall be issued an appearance ticket detailing the violations and instructing the owner to appear before the Justice Court of the Town of Canton or to answer such appearance ticket by registered or certified mail, return receipt requested, within five (5) days of the date of such violation. If said appearance ticket is disregarded by such person, the Code Enforcement Officer may file an information with said Court, which Court shall then issue a warrant for the arrest of such person. Any of the above stated offenses is punishable by a fine of not more than five hundred dollars (\$500.) or by imprisonment for not more than thirty (30) days, or both. Each day that an offense continues shall be deemed to constitute a separate offense.
- C. Except as provided otherwise by law, such offense shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon, or affect or impair the credibility as a witness, or otherwise of, any person convicted thereof.

## **ARTICLE II**

### **Building Permit Fees**

#### **23-16. Building permit fees.**

Building permit fees are set annually by the Town Board. The amount is on file at the Town Clerk's Office and listed in Chapter 8 Fees, of this Code.

## Chapter 24

### UNSAFE BUILDINGS AND STRUCTURES

- 24-1. Legislative intent.
- 24-2. Definitions.
- 24-3. Compliance with notice required.
- 24-4. Posting of buildings or structures.
- 24-5. Notice of violation.
- 24-6. Time limit for compliance.
- 24-7. Procedure of abatement of unsafe buildings and structures.
- 24-8. Penalties for offenses.
- 24-9. Work to be done by town upon noncompliance; costs as lien.
- 24-10. Publication of notice.
- 24-11. Owners severally responsible.
- 24-12. Severability.

#### GENERAL REFERENCES

Building construction c See Ch. 23.

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- 24-1. Legislative intent.

Unsafe buildings, structures and debris or rubble from buildings pose a threat to health, safety and welfare of the community. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows may serve as an attractive nuisance for young children, who may be injured therein, as well as a point of congregation by vagrants, juveniles, and transients,

and other persons not authorized by the owner to be in or upon the building or structure. Dilapidated buildings may also serve as a place of infestation by rodents, birds and other animal pests, thereby creating a health menace to the community. Vacant and/or dilapidated buildings may also have a debilitating and blighting effect on nearby properties. Debris, rubble or parts of buildings left on the ground and not removed constitute an unsafe, unhealthy and unsightly condition. Further, the community=s citizens may be physically harmed by the component parts of unstable or dilapidated buildings falling into the street or upon neighboring property.

It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town of Canton, by requiring unoccupied and unsafe buildings, and buildings that constitute a public nuisance, to be secured, repaired, or demolished and removed.

## ▸ 24-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**BUILDING or STRUCTURE** c Any house, basement, cellar, wall, cottage, lot, shed, garage, well, fence, sidewalk, storage tank, underground container, pole, smokestack, excavation, building, or other man-made structure, or portion thereof, used for residential, retail, commercial, business, industrial, recreational or any other purpose. This definition includes any debris, rubble or parts of buildings or structures, which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty.

**CODE ENFORCEMENT OFFICER** c The Code Enforcement Officer of the Town of Canton, or such other appointed person appointed by the Town Board to enforce the provisions of this chapter.

**OWNER** c The person or persons, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to the property on which the structure is situated or with the exclusive control of such structure in his capacity as a legal representative, such as administrator, executor, trustee, etc.

**UNSAFE BUILDINGS AND STRUCTURES** c Any one of the following conditions in a building or structure make the building or structure for the purposes of this section an unsafe building or structure. All such unsafe buildings and structures are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition, in accordance with procedures of this section and ▸ 130(16) of the New York State Town Law.

1) Structurally unsafe.

- 2) Unsanitary.
- 3) Not provided with adequate egress.
- 4) A fire hazard or otherwise dangerous to human life.
- 5) In their existing use they are a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

▸ **24-3. Compliance with notice required.**

No owner shall maintain, permit or allow the existence of a structure after notice by the Code Enforcement Officer as provided in ▸ 24-4.

▸ **24-4. Posting of Buildings and Structures.**

When the Code Enforcement Officer determines a building or structure constitutes an unsafe building or structure, he shall post the building or structure as an unsafe building or structure.

▸ **24-5. Notice of violation.**

If the Code Enforcement Officer shall determine that a building or structure constitutes an unsafe structure, he/she shall notify the owner thereof, by certified mail, of such determination and shall direct the owner to board up the structure or take whatever action may be appropriate to seal off the entrance or entrances thereto or eliminate the problem. In the event that the structure has deteriorated to the extent that demolition may be required, he/she may order the demolition of the building. However, demolition may only be ordered after the structure has been inspected by a qualified New York State licenced civil engineer or architect, to be selected by the Code Enforcement Officer, and certified by said engineer or architect that the public health, safety or welfare requires demolition due to the condition of the building. Said inspection shall be upon request by the Code Enforcement Officer and shall be a town expense. The notice shall also advise the owner that, upon his failure to comply with the direction of the Code Enforcement Officer within thirty (30) days from the date of the mailing of the notice, he/she shall be subject to prosecution for violation of this chapter. The notice shall also advise that, in lieu of or in addition to such fine, and subsequent to said thirty (30) days,

the town may itself secure the structure and assess the cost thereof as a lien against the premises.

▸ **24-6. Time limit for compliance.**

The owner shall have thirty (30) days from the date of the posting of the structure and the mailing of a copy of the notice to the last known owner of record or of the personal service of notice upon the owner. Failure to comply shall constitute a violation of this chapter. A conviction of an owner shall not bar further prosecutions for noncompliance with this chapter subsequent to such conviction. An offense against this chapter shall constitute a violation.

▸ **24-7. Procedure for abatement of unsafe buildings and structures.**

- A. The Code Enforcement Officer shall examine or cause to be examined every building reported as unsafe or damaged or a hazard to safety or health and shall make a written record of such examination.
- B. If the Code Enforcement Officer finds that there is actual and immediate danger of failure or collapse so as to endanger life, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Code Enforcement Officer. The Code Enforcement Officer shall cause to be posted at each entrance to such building the notice: ~~A~~This building is unsafe and its use or occupancy has been prohibited by the Code Enforcement Officer.~~@~~ Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation, or their agents or other servants, to remove such notice without written permission of the Code Enforcement Officer, or for any person to enter the building except for the purpose of making the required repairs or demolishing the building.
- C. Appointment of Inspectors when the owner, agent or person in control cannot be found within the stated time limit, or if such owner, agent or person in control shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or to demolish and remove said building or structure or portion thereof; when the Owner disagrees with the opinion of the Code Enforcement Officer; or when the Code Enforcement Officer wants a second opinion.
  1. The owner responds and does not agree with the Code Enforcement Officer.  
An inspection shall be made, as provided in ' 130(16) of the Town Law, by a New York State licensed civil engineer or architect to be named by

the Town Board, and a New York State licensed civil engineer or architect or practical builder appointed by the owner, agent or person in control of the premises in question. The inspector=s shall make the inspection and report to the Code Enforcement Officer.

2. The owner, agent or person in control cannot be found within the stated time limit, or if such owner, agent or person in control shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or to demolish and remove said building or structure or portion thereof. An inspection shall be made, as provided in § 130(16) of the Town Law, by a New York State licensed civil engineer or architect to be named by the Town Board. The inspector shall make the inspection and report to the Code Enforcement Officer.
- D. If the report of the inspection shall find that said building or structure is unsafe or dangerous, an application shall be made to a special session of the Supreme Court for an order determining that said building or structure is a public nuisance and directing that it be repaired and secured or taken down and removed.
- E. In cases of emergency which, in the opinion of the Code Enforcement Officer, involve imminent danger to human life or health, the Code Enforcement Officer shall promptly cause such buildings, structures or portions 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 costs 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 way.
- F. Costs incurred under Subsections D, E and F of this section shall be paid out of the municipal treasury on authorization by the Town Board. Such costs shall be charged to the owner of the premises involved and shall be collected in the manner provided by law.

• **24-8. Penalties for offenses.**

The penalty for the first conviction shall be a fine in the amount of one hundred dollars (\$100.). The penalty for each subsequent conviction of an owner for violation of this chapter with respect to the same structure shall be a fine of two hundred fifty dollars (\$250.).

• **24-9. Work to be done by town upon noncompliance; costs as lien.**

In lieu of or in addition to prosecution of the owner, and subsequent to the notice

provided for in ' 24-5 or in 24-10, as the case may be, the town may undertake to secure the structure, utilizing either town personnel or independent contractors for the performance of the work. The cost thereof shall be assessed as a lien against the property. An instrument, in such form as shall be prescribed by the Town Attorney and suitable for filing, shall be filed with the St. Lawrence County Clerk's office for the purpose of perfecting said lien. Such lien may be enforced in accordance with the procedure prescribed in Article 3 of the Lien Law for the enforcement of mechanics' liens on real property.

▪ **24-10. Publication of notice.**

If the owner cannot be ascertained or is not locatable, then a notice may be published once in each of two (2) consecutive weeks in the official newspaper of the town advising of the existence of a structure and that, if the same is not secured within thirty (30) days from the date of the last publication, the town will secure the structure and assess the cost thereof as a lien against the premises, said lien may be enforced as prescribed by law.

▪ **24-11. Owners severally responsible.**

If the structure is owned by more than one (1) owner, each owner shall severally be subject to prosecution for the violation of this chapter. Where one (1) or more of the joint owners cannot be located or are without the jurisdiction of the court, the joint owner or owners who are within the jurisdiction nevertheless may be prosecuted.

▪ **24-12. Severability.**

Each separate provision of this chapter shall be deemed independent of all other provisions of the chapter herein. If a court of competent jurisdiction shall declare any provision of the chapter invalid, all other provision shall nevertheless remain valid and enforceable.



## Chapter 27

# ELECTRICAL STANDARDS

- ▮ 27-1. Purpose.
- ▮ 27-2. Conformance with National Electrical Code required.
- ▮ 27-3. Inspections.
- ▮ 27-4. Commercial Buildings.
- ▮ 27-5. Reports.
- ▮ 27-6. Issuance of certificates of compliance.
- ▮ 27-7. Penalties for offenses.
- ▮ 27-8. Applicability.
- ▮ 27-9. Liability.

## GENERAL REFERENCES

Building construction ◊ See Ch. 23.  
Subdivision of land ◊ See Ch. 56.

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### ▮ 27-1. Purpose.

The Town of Canton, by enactment of Local Law No. 2 of the year 1989, has provided for the enforcement of the New York State Uniform Fire Prevention and Building Code, and recognizing that said code, in Parts 850 and 1030.1, provides minimum parameters for the design, installation and location of electrical wiring, systems and equipment operating on fifty (50) volts or more, wishes to more fully implement the aforesaid provisions and facilitate enforcement of the same.

▸ **27-2. Conformance with National Electrical Code required.**

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code, except when the provisions of this chapter or any other local law, ordinance or Building Code of the town provide otherwise, in which event compliance with the provisions of such local law, ordinance or Building Code shall be recognized as proper compliance with this chapter. The requirements of the National Electrical Code shall be those known as a National Fire Protection Association Pamphlet No. 70, as approved and adopted by the American Standards Association.@

▸ **27-3. Inspections.**

The Town Board of the Town of Canton, upon the advice and recommendation of the Code Enforcement Official, shall be and is hereby authorized to appoint and deputize as agents of the Town of Canton for the purpose of making inspections and reinspections, during normal working hours (7:00 a.m. to 5:00 p.m.), except in emergency situations, at places and upon reasonable notice, of all electrical installations regulated and covered by the New York State Uniform Fire Prevention and Building Code and to approve or disapprove said installations, such persons, agencies or organizations as, in the opinion and discretion of the Code Enforcement Official, shall be qualified to conduct the same. In no event shall the cost or expense of such inspections or reinspections be a charge against the Town of Canton. The cost shall be born by the applicant.

▸ **27-4. Commercial Buildings.**

- A. All newly constructed, converted, modified or altered Commercial Buildings will be wired with conduit or metal clad cable, consistent with National Electrical Code.
- B. All Commercial Buildings, as defined by State and Local Law (presently C1 thru C7), require interconnected smoke and fire detection systems.

▸ **27-5. Reports.**

It shall be the duty of such person, organization or agency duly appointed and deputized as provided in this chapter to report, in writing, to the Code Enforcement Official of the Town of Canton all violations of or deviations from the provisions of the National Electrical Code, and of all local laws and the Building Code insofar as any of the same shall apply to electrical wiring, systems and equipment covered by this

chapter. Such deputized inspector shall make inspections and reinspections of electrical installations in and of properties in the Town of Canton upon the written request of the Town of Canton Code Enforcement Official.

▮ **27-6 Issuance of certificates of compliance.**

It shall be the duty of such appointed and deputized electrical inspector to issue a certificate of compliance only when electrical installations and equipment are found to be in conformity with the provisions of the National Electrical Code and of this chapter. The inspector shall send a copy of the certificate of compliance or the official denial thereof to the Code Enforcement Official of the Town of Canton.

▮ **27-7. Penalties for offenses.**

Any installation or alteration of an electrical system or electrical wiring that is covered and regulated by the provisions of the New York State Uniform Fire Prevention and Building Code, the National Electrical Code or a local law of the Town of Canton without the issuance of a certificate of compliance as hereinabove provided shall be a violation of this chapter. Any person, firm or corporation who shall violate the provisions of this chapter shall be subject to all penalties and remedies provided by Article 18 of the Executive Law of the State of New York as the same pertains to violations of the New York Uniform Fire Prevention and Building Code.

▮ **27-8. Applicability.**

The provisions of this chapter shall not apply to the electrical installations of mines, ships, railway cars, automotive equipment or the installations or equipment employed by railway, electrical or communication utilities in the exercise of its function as a utility and located outdoors or in buildings used exclusively for that purpose. This chapter shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as their principal business. It shall not apply to any building which is owned or leased in its entirety by the Government of the United States of America or the State of New York.

▮ **27-9. Liability.**

This chapter shall not be construed to relieve from or lessen the liability of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any

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defect therein, nor shall the Town of Canton, its Code Enforcement Official or the deputized electrical inspector be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.

## Chapter 28

### FAIR HOUSING

- **28-1. Adoption of Fair Housing Amendment.**
  - **28-2. Purposes and enactment.**
  - **28-3. Word usage and definitions.**
  - **28-4. Discrimination in the sale or rental of housing.**
  - **28-5. Discrimination in the provision of brokerage services.**
  - **28-6. Exemptions.**
  - **28-7. Administration.**
  - **28-8. Miscellaneous provisions.**
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- **28-1. Adoption of Fair Housing Amendment.**

The Town of Canton adopts the Fair Housing Amendments Act of 1988 Public Law 100-430, 102 Stat. 1619.

- **28-2. Purposes and enactment.**

For the purpose of providing and ensuring fair housing opportunities for all within the Town of Canton, New York, the Town Board of the Town of Canton, in the County of St. Lawrence, State of New York, under the authority of the General Municipal Law and Town Law, hereby obtains, enacts and publishes this chapter.

- **28-3. Word usage and definitions.**

A. For the purpose of this chapter, certain words or phrased herein shall be interpreted as follows, except where the context clearly indicates the contrary:

1. Words used in the singular include the plural.

2. Words used in the present tense include the future tense.
3. The word "person" includes a corporation as well as an individual.
4. The word "shall" is always mandatory.

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

**DISCRIMINATORY HOUSING PRACTICE** c An act that is unlawful under The Fair Housing Act of 1988.

**DWELLING** c Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

**FAMILY** c Includes a single individual.

**PERSON** c Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

**TO RENT** c Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

**HANDICAPPED** - with respect to a person:

1. A physical or mental impairment which substantially limits one or more of such person=s major life activities,
2. A record of having such an impairment, or
3. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)).

**FAMILIAL STATUS** - One or more individuals (who have not attained the age of 18 years) being domiciled with:

1. A parent or another person having legal custody of such individual or individuals; or

2. The designee of such parent or other person having custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

▪ **28-4. Discrimination in the sale or rental of housing.**

Except as exempted by ' 28-6, it shall be unlawful within the Town of Canton:

- A. To refuse to sell or rent after the making of a bona fide offer or to refuse to negotiate for the sale or rental of or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, sex, family status or household composition or disability.
- B. To discriminate against any person in the terms, conditions, privileges of sale or rental of a dwelling or in the provision of services or facilities therewith because of race, color, religion, national origin, sex, family status or household composition or disability.
- C. To make, print, publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin, sex, family status or household composition or disability or an intention to make any such preference, limitation or discrimination.
- D. To represent to any person because of race, color, religion, national origin, sex, family status or household composition or disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
- E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, sex, family status or household composition or disability.

▪ **28-5. Discrimination in the provision of brokerage services.**

It shall be unlawful within the Town of Canton to deny any person access to or membership or participation in any multiple listing service, real estate broker's

organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against him in the terms or conditions of such access membership or participation on account of race, color, religion, national origin,, sex, familial status or household composition or disability.

▪ **28-6. Exemptions.**

A. Sales and rentals by owners.

1. Nothing in ' 28-4 (other than Subsection C) shall apply to:

- a. Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided, further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the recent resident of such house at time of such sale, the exception granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four-month period; provided, further, that such bona fide private individual owner does not have any interest in, nor is there owned or reserved on his behalf under any express or voluntary agreement, title, right to all or a portion of the proceeds from the sale, or rental of more than three (3) such single-family houses at one (1) time; provided, further, that the sale or rental of any such single-family house shall be excepted from the application of this chapter only if such house is rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person; and without publication, posting or mailing after notice, of any advertisement or written notice in violation of ' 28-3 of this chapter; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as may be necessary to perfect or transfer title; or
- b. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

2. For the purpose of this exemption, a person shall be deemed to be in the business of selling or renting dwellings if:



- a. He has, within the preceding twelve (12) months, participated as a principal in three (3) or more transactions involving the sale or rental of any dwelling or interest therein;
  - b. He has, within the preceding twelve (12) months, participated as an agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
  - c. He is the owner of any dwelling designed or intended for occupancy by or occupied by five (5) or more families.
- B. Sales/rentals by religious organizations. Nothing in this chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or for giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, gender, familial status, household composition or disability; nor shall anything in this chapter prohibit a private club not in fact open to the public, which, as an incident to its primary purpose or purposes, provides lodging which it owns or operates for other than a commercial purpose from limiting the rental of occupancy of such lodgings to its members or from giving preference to its members.

▸ **28-7. Administration.**

- A. Authority and responsibility. The authority and responsibility for publicizing, administering and enforcing (to the degree practical) this chapter shall be in the Code Enforcement Officer of the Town of Canton or another person if designated by the Town Superintendent.
- B. Reporting offenses. Violations of this chapter shall be reported in person or in writing to the Town Supervisor within one (1) year of the alleged discriminatory housing practice. The Town Supervisor shall refer all such complaints to the United States Department of Housing and Urban Development's Region II Buffalo Office of Fair Housing and Equal Opportunity for investigation and prosecution (if warranted).
- C. Enforcement. Where sufficient cause exists to believe that the terms of this chapter have been violated, the Office of Fair Housing and Equal Opportunity shall institute a suit in Federal District Court or through an administrative

proceeding against the alleged violator following the issuance of the charge.

- D. Penalties for offenses. Where a person or organization has been found, after a trial on the merits, in violation of this chapter and/or Federal Fair Housing Laws, civil penalties shall be imposed on such persons or organizations not to exceed ten thousand dollars (\$10,000.) for a first violation, twenty-five thousand dollars (\$25,000.) for a second violation and fifty thousand dollars (\$50,000.) for a third violation. Each and every separate violation of this chapter or Federal Fair Housing Laws shall be deemed a violation for the purpose of imposing the appropriate civil penalty.

▪ **28-8. Miscellaneous provisions.**

- A. Amendment. The Town Board may, on its own initiative or petition, amend, supplement or repeal the provisions of this chapter in conformity with applicable law after public notice or hearing.
- B. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety or general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the highest standards shall govern.
- C. Validity. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.
- D. Short title. This chapter shall be known and may be cited as the ATown of Canton's Fair Housing Law.@
- E. When effective. This chapter shall take effect immediately upon its adoption.

## Chapter 29

# FLOOD DAMAGE PREVENTION

- **29-1. Findings.**
- **29-2. Purpose.**
- **29-3. Objectives.**
- **29-4. Definitions.**
- **29-5. Applicability.**
- **29-6. Basis for establishing areas of special flood hazard.**
- **29-7. Interpretation; conflict with other provisions.**
- **29-8. Penalties for offenses.**
- **29-9. Warning and disclaimer of liability.**
- **29-10. Designation of local administrator.**
- **29-11. Development permit.**
- **29-12. Permit application.**
- **29-13. Duties and responsibilities of local administrator** (The local administrator for the Town of canton is the Code Enforcement Officer).
- **29-14. General standards.**
- **29-15. Standards for all structures.**
- **29-16. Residential structures.**
- **29-17. Nonresidential structures.**
- **29-18. Manufactured homes and recreational vehicles.**

- **29-19. Appeals Board.**
- **29-20. Conditions for variances.**

#### **GENERAL REFERENCES**

**Building construction** See Ch. 23.  
**Subdivision of land** c See Ch. 56.  
**Zoning** c See Ch. 70.

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#### ▸ **29-1. Findings.**

The Town Board of the Town of Canton finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Canton and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

#### ▸ **29-2. Purpose.**

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural flood plains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

F. Qualify for and maintain participation in the National Flood Insurance Program.

▪ **29-3. Objectives.**

The objectives of this chapter are:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. To provide that developers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

▪ **29-4. Definitions.**

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following words shall have the meanings indicated:
  - APPEAL c A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.
  - AREA OF SHALLOW FLOODING c A designated AO, All or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater

annual chance of flooding to an average annual depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** c The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI through A30, A99, V, VO, VE or V1 through V30. It is also commonly referred to as the Abase floodplain@ or AoneChundredCyear floodplain.@

**BASE FLOOD** c The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** c That portion of a building having its floor subgrade (below ground level) on all sides.

**BUILDING** c See Astructure.@

**CELLAR** c See Abasement.@

**DEVELOPMENT** c Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** c A nonbasement building built, in the case of a building in Zones AI through A30, AE, A, A99, AO, AH, B, C, X or D, to have the top of the elevated floor or, in the case of a building in Zones Vi through V30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AI through A30, AE, A, A99, AO, AI, B, C, X or D, A'elevated building' also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones VI through V30, VE or V, A'elevated building@ also includes a building otherwise meeting the definition of A'elevated building,@ even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** c A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed

(including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** c The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

**FEDERAL EMERGENCY MANAGEMENT AGENCY** c The federal agency that administers the National Flood Insurance Program.

**FLOOD BOUNDARY AND FLOODWAY MAP**

(FBFM) c An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD ELEVATION STUDY** c An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**FLOOD or FLOODING:**

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters; or
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) Flood or flooding also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** c An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

**FLOOD INSURANCE RATE MAP (FIRM)** c An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** c See Aflood elevation study.@

**FLOODPLAIN** or **FLOOD-PRONE AREA** c Any land area susceptible to being inundated by water from any source (see definition of Aflooding').

**FLOODPROOFING** c Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** c Has the same meaning as Aregulatory floodway@.

**FUNCTIONALLY DEPENDENT USE** c A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair facilities. The term does not include long-term storage, manufacturing, sales or service facilities.

**HIGHEST ADJACENT GRADE** c The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**HISTORIC STRUCTURE** c Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;



- (3) Individually listed on a State Inventory of Historic Places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a Local Inventory of Historic Places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LOCAL ADMINISTRATOR** c The Code Enforcement Officer is appointed by the Town Board to administer and implement this chapter by granting or denying development permits in accordance with its provisions.

**LOWEST FLOOR** c The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a buildings Alowest floor,@ provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME** c A structure, transportable in one (1) or more sections and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a Arecreational vehicle.@

**MANUFACTURED HOME PARK OR SUBDIVISION** c A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** c For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** c Has the same meaning as manufactured home, built on a permanent chasis.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** c As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION** c Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community, and includes any subsequent improvements to such structure.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** c A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**ONE-HUNDRED-YEAR FLOOD** c The same meaning as **base flood**.@

**PRINCIPALLY ABOVE GROUND** c That at least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

**RECREATIONAL VEHICLE** c A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**REGULATORY FLOODWAY** c The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in ' 29-13B of this chapter.

**START OF CONSTRUCTION** c Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary

forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the actual start means affixing of the manufactured home to its permanent site.

**STRUCTURE** c A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** c Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** c Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**VARIANCE** c A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

▸ **29-5. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Canton.

▸ **29-6. Basis for establishing the areas of special flood hazard.**

A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map (multiple panels), Index No. 361172 0025-0100, whose effective date is August 17, 1998.

(2) A scientific and engineering report entitled aFlood Insurance Study, Town of Canton, New York, St. Lawrence County@ dated August 17, 1998.

B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the office of the Canton Town Clerk, Town Hall, Canton, New York.

▸ **29-7. Interpretation; conflict with other provisions.**

A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

▸ **29-8. Penalties for offenses.**

A. No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards

established in connection with conditions of the permit, shall constitute a violation.

- B. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Code Enforcement Officer from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under ' ' 29-19 and 29-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

▮ **29-9. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Canton, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

▮ **29-10. Designation of local administrator.**

The Code Enforcement Officer is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

▮ **29-11. Development permit.**

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in ' ' 29-6, without a valid floodplain

development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee. In addition, the applicant shall be responsible for reimbursing the Town of Canton for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than five hundred dollars (\$500.) to cover these additional costs.

▸ **29-12. Permit application.**

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones AI through A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in ▸ 29-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in ▸ 29-17, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the

documents enumerated in ' 29-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- F. A technical analysis by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

▪ **29-13. Duties and responsibilities of the local administrator** (The local administrator in the Town of Canton is the Code Enforcement Officer) .

Duties of the local administrator shall include but not be limited to the following:

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
  - (1) Review all applications for completeness, particularly with the requirements of ' 29-12, Permit application, and for compliance with the provisions and standards of this chapter.
  - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of ' ' 29-14 through 29-18 and, in particular, ' 29-14A, Subdivision proposals.
  - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of ' ' 29-14 through 29-18, no permit shall be issued. The applicant may revise the application to include measures that mitigate or

eliminate the adverse effects and resubmit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to ' 29-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

- (1) Provide notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.



D. Construction stage.

- (1) The local administrator shall, in Zones AI through A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and to enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

- (1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in ' 29-8 of this chapter.
- (2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in ' 29-8 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in ' 29-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created,

erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in ' 29-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

- (1) Floodplain development permits and certificates of compliance.
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to ' 29-13D(1) and (2), and whether or not the structures contain a basement.
- (3) Floodproofing certificates required pursuant to ' 29-13D(1), and whether or not the structures contain a basement.
- (4) Variances issued pursuant to ' ' 29-19 and 29-20.
- (5) Notices required under ' 29-13C, Alteration of watercourses.

#### **' 29-14. General standards.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in ' 29-6.

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage.

- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage.
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

**B. Encroachments.**

- (1) Within Zones AI through A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any location; or
  - (b) The Town of Canton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Canton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Canton for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in ' 29-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
  - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in increase in flood levels during occurrence of the base flood; or
  - (b) The Town of Canton agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Canton for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Canton for all costs related to the final map revisions.

**• 29-15. Standards for all structures.**

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones AI through A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

(c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

(1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a buildings exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

▪ **29-16. Residential structures.**

A. Elevation. The following standards, in addition to the standards in ' 29-14A, Subdivision proposals, ' 29-14B, Encroachments, and ' 29-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones AI through A30, AE and All, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to one (1) foot above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three (3) feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in ' 29-6 [at least two (2) feet if no depth number is specified].
- (4) Within Zones All and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

▪ **29-17. Nonresidential structures.**

The following standards apply **to new and** substantially improved commercial,

industrial and other nonresidential structures, in addition to the requirements in ' 29-14A, Subdivision proposals, ' 29-14B, Encroachments, and ' 29-15, Standards for all structures.

A. Within Zones AI through A30, AE and All, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

- (1) Have the lowest floor, including basement or cellar, elevated to one (1) foot above the base flood elevation; or
- (2) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM [at least two (2) feet if no depth number is specified]; or
- (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in ' 29-17A(2).

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of ' 29-17A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AB and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three (3) feet above the highest adjacent grade.

▮ **29-18. Manufactured homes and recreational vehicles.**

The following standards in addition to the standards in ▮ 29-14, General standards, and ▮ 29-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- A. Recreational vehicles placed on sites within Zones AI through A30, AE and AH shall either be on-site fewer than one hundred (100) consecutive days, be fully licensed and ready for highway use or meet the requirements for manufactured homes in ▮ 29-18B, D and E. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones AI through A30, AE and AI that is on a site either outside of an existing manufactured home park or subdivision, as herein defined; in a new manufactured home park or subdivision, as herein defined; in an expansion to an existing manufactured home park or subdivision, as herein defined; or in an existing manufactured home park or subdivision, as herein defined, on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to one (1) foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.
- C. A manufactured home to be placed or substantially improved in Zones AI through A30, AE and AI in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
  - (1) Elevated in a manner such as required in ▮ 29-18B; or
  - (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

- D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in ' 29-6 [at least two (2) feet if no depth number is specified]. Elevation on piers consisting of dry stacked blocks is prohibited.

• **29-19. Appeals Board.**

- A. The Zoning Board of Appeals as established by the Town of Canton shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  - (1) The danger that materials may be swept onto other lands to the injury of others.
  - (2) The danger to life and property due to flooding or erosion damage.
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (4) The importance of the services provided by the proposed facility to the community.
  - (5) The necessity to the facility of a waterfront location, where applicable.



- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - (7) The compatibility of the proposed use with existing and anticipated development.
  - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of ' 29-19D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

▪ **29-20. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half **(2)** acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in ' 29-19D(1) through (12) have been fully considered. As the lot size increases beyond the one-half **(2)** acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (1) The criteria of Subsections A, D, E and F of this section are met.
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
  - (1) A showing of good and sufficient cause.
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense or create nuisances or cause fraud on or victimization of the

public or conflict with existing local laws or ordinances.

- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

## Chapter 30

# GARBAGE, RUBBISH, REFUSE & BURNING

- **30-1. Definitions.**
  - **30-2. Control by Town Board.**
  - **30-3. Open fire restrictions.**
  - **30-4. Permits.**
  - **30-5. Dumping restrictions.**
  - **30-6. Penalties for offenses.**
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- **30-1. Definitions.**

For the purpose of this Article, the following words and phrases shall have the meanings ascribed to them in this section:

- A. GARBAGE - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.
- B. RUBBISH - Solid or liquid waste material, including but not limited to, paper and paper products; rags; furniture; cans; plastics; cartons; chemicals; paint; grease; sludges; oils and other petroleum products; asphalt or fiberglass shingles; pressure treated and creosoted lumber and wood products; Styrofoam; foam rubber; rubber products; diapers; tires; automobiles and other vehicles and parts for junk, salvage or disposal. Rubbish shall not include garbage incinerator residue, dead animals or offal.
- C. REFUSE - All waste material, including but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals, and offal.
- D. OPEN FIRE - Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere.

▪ **30-2.Control by Town Board.**

The Town Board of the Town of Canton, in order to protect the health and safety of the people of the Town of Canton, is authorized and directed, by implementing and enforcing the provisions of this Article, to control burning.

▪ **30-3. Open fire restrictions.**

- A. No person shall set, or cause to be set, any uncontained fire within the limits of the Town of Canton without having first obtained a permit to do so. Permitted uncontained open burning requires permit. Contained burning in a ventilated receptacle, not to exceed 13.5 cubic feet, does not require a burning permit. No smoldering fires are permitted. No fee is required for the burning permit.
- B. Outdoor fires including bon fires and rubbish fires, shall not be permitted unless legally authorized and in conformity with forest fire control regulations.
- C. Outdoor fires, where permitted shall be attended at all times with appropriate fire extinguishing equipment available.
- D. The local Fire Department and Code Enforcement Officer shall be notified whenever outdoor burning is being conducted, notification shall include such information as to time and location.
- E. It is illegal to burn garbage, rubbish and refuse.
- F. It is illegal to burn land clearing waste, construction and demolition wastes not generated on the premises of the residential or agricultural burning site.
- G. Burning is prohibited within 100 feet of a structure or within 75 feet of a boundary line of adjacent property without written approval of the adjacent property owner.
- H. Nothing contained herein shall be construed to prohibit or require a permit for a barbecue fire, a fire for cooking of food, but said activities shall be confined to a fireplace or other fireproof container or fire pit.

▪ **30-4. Permits.**

- A. Fire Wardens - Four (4) Fire Wardens shall be appointed annually by the Town Board to serve for one year terms.
- B. Fire Wardens shall issue open burning permits. A permit can be obtained from

any of the Fire Wardens.

▪ **30-5.Dumping restrictions.**

No person, firm or corporation shall throw or deposit or cause to be thrown or deposited any refuse, garbage, rubbish, abandoned vehicles or parts thereof, in or upon any public highway, street or right of way within the Town of Canton, except upon lands designated by the Town Board of Canton.

▪ **30-6. Penalties for offenses.**

Any person committing any offense against any provision of these Article shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York. The first offense shall be punishable by a fine not exceeding two hundred fifty dollars (\$250)and/or community service. The continuance of an offense for each day [twenty four (24) hours] shall be deemed a distinct and separate violation punishable by a fine not to exceed two hundred and fifty dollars (\$250) for each offense and reimbursement to the Town for the cost of appropriate removal of the materials.

## Chapter 53

### ALL TERRAIN VEHICLES

#### ▸ 53-1. Operation of all terrain vehicles.

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#### ▸ 53-1. Operation of all terrain vehicles.

The operation of a snowmobile and all terrain vehicles upon any highway which is a state highway within the corporate limits of the Town of Canton is specifically subject to the applicable provisions of the Parks and Recreation Law and Vehicle Traffic Law.

The Town Hereby adopts provisions of Article 25 of the New York State Parks and Recreation Historical Preservation law as it pertains to Snowmobiles and as amended from time to time.

Pursuant to Parks and Recreation Historical Preservation Law Section 25.05(7), the following roads are to be designated in the Town of Canton for snowmobile travel in order to reach Previously established snowmobile trails:

- a. Full length of the Irish Settlement Road,
- b. Full length of the Old DeKalb Road from Route 68 to the intersection with the DeKalb Junction – Rensselaer Falls Route15,
- c. Pyrites-Eddy Road extending from the Old DeKalb Road intersection to the intersection with the Cousintown Road,
- d. O'Horo Road from the Old DeKalb Road to Old U.S. Route 11,
- e. Portion of the Jamison Road Which is open to public travel,
- f. Old U.S. Route 11,
- g. THIS SPACE WAS LEFT OUT ON LOCAL LAW!!
- h. Rich Road extending from Old U.S. Route 11 to the Jingleville Road,
- i. Jingleville Road extending from the the Eddy-Pyrites Road to the Miner Street Road,
- j. Miner Street Road extending from the town limits to its intersection with the Pyrites-Eddy Road,
- k. Crusher Road between the intersection of the Pyrites-Eddy Road and the Cousintown Road,
- l. North Woods Road From the intersection of the Hermon-Pyrites Road southerly to the Town line,
- m. Conger Road from Highway 68 to the Morley-Woodbridge Corners Road,
- n. Morley-Potsdam Road from Morley southerly to the intersection of Route 310, and

- o. Ames Road from the intersection of the Finnegan Road to the intersection of the Judson Street Road.

Article II. Severability.

If any clause, sentence, paragraph, section, article or part of this local law should be adjusted by a court of competent jurisdiction to be invalid, it shall not be affected, impair or operation to the clause, sentence, paragraph, section, article or judgment shall be rendered.

Article IV. Repeal of Conflicting Legislation.

All local laws, ordinances or resolutions, or parts thereof, with regard to snowmobiles previously passed by the Town of Canton are hereby repealed.

Article 5. Effective Date.

This local law shall take effect on 1/10/2005.



**Chapter 56**

**SUBDIVISION OF LAND**

**ARTICLE I  
General Provisions**

- ▮ **56-1. Authorization of Planning Board.**
- ▮ **56-2. Title.**
- ▮ **56-3. Approval by Town Board.**
- ▮ **56-4. Purpose.**
- ▮ **56-5. Enforcement.**
- ▮ **56-6. Amendments.**
- ▮ **56-7. Variances.**
- ▮ **56-8. Penalties for offenses; additional remedies.**
- ▮ **56-9. Fee.**

**ARTICLE II  
Definitions**

- ▮ **56-10. Definitions.**

**ARTICLE III**  
**Review and Approval Procedures**

- ‡ 56-11. Stages of procedure.
- ‡ 56-12. Preapplication procedures.
- ‡ 56-13. Sketch plan conference.
- ‡ 56-14. Agricultural/woodland waiver.
- ‡ 56-15. Approval by State Department of Health.
- ‡ 56-16. Preliminary plats.
- ‡ 56-17. Final plats.

**ARTICLE IV**  
**Required Information**

- ‡ 56-18. All plats.
- ‡ 56-19. Minor subdivision final plats.
- ‡ 56-20. Major subdivision preliminary plat.
- ‡ 56-21. Major subdivision final plat.
- ‡ 56-22. Waiver of requirements.

**ARTICLE V**  
**Design Standards and Required Improvements**

- ‡ 56-23. Road design standards.
- ‡ 56-24. Road construction standards.
- ‡ 56-25. Sidewalks.
- ‡ 56-26. Utilities.
- ‡ 56-27. Lots.
- ‡ 56-28. Unique and natural features.
- ‡ 56-29. Public open spaces and sites.
- ‡ 56-30. Land unsuitable for subdivision.

**GENERAL REFERENCES**

Planning Board ☐ See Ch. 9.  
Building construction ☐ See Ch. 23.  
Zoning ☐ See Ch. 70.

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**ARTICLE I**  
**General Provisions**

- ‡ 56-1. Authorization of Planning Board.

By authority of the resolution of the Town Board of the Town of Canton adopted on April 14, 1987, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Canton Town Planning Board is authorized and empowered under ‡ 276 of the Town Law to:

- A. Approve, conditionally approve or disapprove plats showing lots, blocks or sites, with or without roads or highways.

- B. Approve preliminary plats.
- C. Pass and approve the development of entirely or partially undeveloped plats already filed in the office of the County Clerk.
- D. Adopt such rules and regulations as it deems necessary, consistent with the New York State Town Law, to approve plats.

‘ **56-2. Title.**

These regulations shall be known as the ASubdivision Regulations of the Town of Canton.@

‘ **56-3. Approval by Town Board.**

These regulations, after public hearing and adoption by the Planning Board, have been approved on April 14, 1987, by the Town Board and are effective this day of approval.

‘ **56-4. Purpose.**

The purpose of these regulations is to provide for orderly efficient growth within the community and to afford adequate facilities for the transportation, housing, safety, health and welfare of the population.

‘ **56-5. Enforcement.**

Enforcement of this chapter shall be the duty of the Planning Board acting through the Code Enforcement Officer and as the agent of the Town Board.

‘ **56-6. Amendments.**

The Planning Board may, on its motion and after public hearing, amend, supplement or change these regulations, subject to the approval of the Town Board. These amendments shall take effect after Town Board approval.

‘ **56-7. Variances.**

When, in the opinion of the Planning Board, undue individual hardship may result

from the strict compliance with these regulations, it may modify these regulations so that substantial justice may be done and the public interest secured, provided that such modifications will not have the effect of nullifying the intent and purpose of ' 281 of the Town Law. In the case of a large-scale development, such as a planned unit development, which would include provisions for housing, shopping and recreation facilities, the Planning Board may modify these regulations, provided that such development shall include covenants, restrictions and other legal provisions necessary to guarantee full achievement of such a proposed plan. The Planning Board may waive, subject to appropriate conditions, the provision of any or all of such improvements and requirements as. in its judgment of the special circumstances of a particular plat or plats, are not requisite in the interest of public health, safety or general welfare or which, in its judgment, are inappropriate because of the inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

▸ **56-8. Penalties for offenses; additional remedies.**

- A. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resists the enforcement of any of the provisions of these regulations shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations.
- B. In addition to the penalties provided above, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of these regulations.

▸ **56-9. Fee.**

A fee to be determined by the Town Board shall be paid to the Town Clerk for credit in the general fund when the final plat is submitted to the Planning Board for action thereon.

## ARTICLE II Definitions

## ▸ 56-10. Definitions.

For the purpose of these regulations, words and terms used herein are defined as follows:

**CODE ENFORCEMENT OFFICER** c Any person appointed, designated or otherwise retained by the Town Board to carry out the functions assigned to such person according to these regulations.

**CONDITIONAL APPROVAL OF A FINAL PLAT** c The approval of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such a plat. Such conditional approval does not qualify a plat for recording or authorize the issuance of building permits.

**FINAL PLAT** c A drawing, in final form, showing a proposed subdivision and containing all information or detail required by law and by these regulations, to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

**FINAL PLAT APPROVAL** c The signing of a final plat by a duly authorized officer of a Planning Board after a resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed.

**OFFICIAL SUBMISSION DATE** c The day on which an application for plat approval, complete and accompanied by all required information, endorsements and fees, has been filed with the Planning Board.

**PRELIMINARY PLAT** c A drawing(s), clearly marked A preliminary plat,@ showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**PRELIMINARY PLAT APPROVAL** c Approval of the layout of proposed subdivision as set forth in the preliminary plat. but subject to approval of the plat in final form.

**SKETCH FORM** c A sketch of a proposed subdivision to enable the subdivider to save time and money in reaching GENERAL agreement with the Planning Board as to the form of the layout and objectives of these regulations.

**SUBDIVISION** c Whenever, any division of a parcel, that would create more than two (2) parcels\* in any one-year period\*\* is proposed in the Town, it is

considered to be a subdivision.

No contract can be made to sell, nor can any offer be made to sell any lots in such a subdivision or any part thereof before the subdivider makes application for and receives final approval of such proposed subdivision in accordance with these regulations.

Whenever any sales of a parcel of land takes place, any subsequent sale of a portion of that parcel within one (1) year of the recording of the Deed of the original sale shall be deemed a subdivision and shall be subject to the regulations aforesaid. However, a sale or conveyance of the entire parcel originally conveyed within the ensuing one (1) year shall not be deemed a subdivision.

\* i.e. The original parcel plus one new created parcel within the boundaries of the original parcel.

\*\* i.e. One year from the date of the proposed division.

[Amended 9-11-2001]

SUBDIVISION, MAJOR c A subdivision containing five (5) or more lots, or any subdivision requiring a new road.

SUBDIVISION, MINOR c A subdivision containing two (2) to four (4) lots, fronting on an existing road.

### **ARTICLE III Review and Approval Procedures**

#### **56-11. Stages of procedure.**

A. Minor subdivisions shall be processed in the following stages:

- (1). Sketch plan conference/final plat.
- (2). Public hearing.
- (3). Final plat approval.

B. Major subdivisions shall be processed in the following stages:

- (1). Sketch plan conference/preliminary plat.
- (2). Public hearing.
- (3). Preliminary plat approval.
- (4). Optional public hearing.
- (5). Final plat approval.

▪ **56-12. Preapplication procedures.**

Prior to the preparation of and the submission of a plat for approval, the subdivider should proceed to gather the necessary information and data on the existing conditions at the site. He/she should study the site suitability and opportunities for development. Presumably, he/she will discuss financing, planning and marketing with the lending institutions. With his/her licensed land surveyor he/she should develop a preliminary layout in sketch form which in turn should be submitted to the Planning Board for advice and assistance and should include a preliminary environmental assessment.

▪ **56-13. Sketch plan conference.**

A. The subdivider should request an appointment with the Planning Board for the purpose of reviewing the sketch plan. The Planning Board will notify the subdivider of the time, date and place that the Planning Board will meet to consider and review such sketch plan and the program as they relate to the General Plan, Zoning Law, design standards and improvement requirements. This meeting is intended to assist the subdivider in the planning and preparation of the preliminary and final plats to save him/her both time and expense in preparing maps and plans. The plan will be classified as a minor or major subdivision by the Planning Board, as defined in these regulations. Subdivisions classified as minor may proceed directly to the preparation of a final plat without submission and approval of a preliminary plat which shall be required for a major subdivision.

B. This step does not require formal application, fee or filing with the Planning Board.

▪ **56-14. Agricultural/woodland waiver.**

If, at the sketch plan conference, the Planning Board determines that the subdivision is for agricultural, woodland purposes only, does not involve the creation of a new road or highway and does not include more than one (1) lot of less than five (5) acres in area, the Planning Board may waive the subdivision review process and exempt the subdivision from these regulations.

▪ **56-15. Approval by New York State Department of Health.**

New York State Department of Health approval is required for any subdivision containing four (4) or more lots in any three-year period. Early contact with the New York State Department of Health office in Massena by the subdivider is advised.



▪ **56-16. Preliminary plats.**

- A. All major subdivisions shall be subject to the preliminary plat requirements as specified therein. The subdivider shall file an application for approval of the preliminary plat on forms available at the Town Office, accompanied by all documents specified in Article IV herein.
- B. Following the review of the preliminary plat and supplementary material submitted for conformity with these regulations and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made, the Planning Board shall hold a public hearing. This hearing shall be held within forty-five (45) days of the official submission date of the plat. The subdivider shall attend the hearing. The hearing shall also fulfill the requirements of the State Environmental Quality Review Act (SEQR) on the environmental assessment. A copy of the application for preliminary plat approval with SEQR will also be submitted to the County Planning Board for its approval.
- C. Within forty-five (45) days of the public hearing, the Planning Board shall approve, approve with modifications, or disapprove the preliminary plat and state its reasons for disapproval.
- D. Notice of public hearing. The hearing shall be advertised at least once in the official newspaper of the town at least five (5) days before the hearing. Notice of the hearing shall be mailed to the owners of all adjoining properties or within one hundred fifty (150) feet of the subdivided property at least five (5) days before the hearing.
- E. SEQR review. The subdivider will be responsible for completion of an environmental assessment form, short or regular, or an environmental impact statement (EIS), at the discretion of the Planning Board. A statement of findings must accompany approval of plat.
- F. Notice of decision. The action of the Planning Board shall be noted on three (3) copies of the preliminary plat and reference made to any modifications determined. One (1) copy shall be returned to the subdivider and the other two (2) copies retained by the Planning Board. One (1) Planning Board copy shall be deposited in the town safe.
- G. Effect of approval. Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider must comply with these regulations and all regulations

set forth by the Planning Board in its review of the preliminary plat and any New York State Department of Health requirements.

▪ **56-17. Final plats.**

- A. All subdivisions, as defined herein, shall require final plat approval by the Planning Board.
- B. The subdivider shall file an application for final plat approval on forms available in the Town Office, and accompanied by documentation as specified in Article IV herein, to the Planning Board. Such application shall be submitted at least ten (10) days prior to the meeting at which it is to be considered by the Planning Board, and no later than six (6) months after the date of the preliminary plat approval.
- C. Optional public hearing. A public hearing may be held by the Planning Board after a completed application is filed and prior to rendering a decision. This hearing shall be held within forty-five (45) days of the official submission date of the final plat. The subdivider shall attend the hearing. The Planning Board shall approve, conditionally approve or disapprove the final plat within forty-five (45) days of the public hearing.
- D. Waiver of public hearing. If the final plat is in substantial agreement with the preliminary plat, the Planning Board may waive the public hearing requirement. If no hearing is held, the Planning Board shall approve, approve with conditions or disapprove the plat within forty-five (45) days of the official submission date.
- E. Notice of decision. The subdivider shall be notified of the action of the Planning Board. If approval is granted, he/she shall record the final plat, or section thereof, in the County Clerk's office within sixty (60) days after the date of approval; otherwise, the plat shall be considered null and void and must again be submitted to the Planning Board for approval before recording in the County Clerk's office.
- F. Conditional approval. Upon resolution of conditional approval of the final plat, the Planning Board shall empower a duly authorized officer to sign the plat, subject to completion of such requirements as may be stated in the resolution. Within five (5) days of such resolution, the plat shall be certified and a copy filed with the Planning Board and the subdivider, stating that, when the requirements are completed, the plat shall be signed by the duly authorized officer of the Board. Conditional approval of a final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. The Planning Board may grant an extension of the time requirement if it deems it necessary; however, no more than two (2) ninety-day extensions may be granted.

- G. Approval of sections. Prior to granting final or conditional approval, the Planning Board may permit the plat to be subdivided into two (2) or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to ensure the orderly development of the plat be completed before such sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.
- H. Signature and filing. Upon satisfactory completion of the above requirements, the signature of the duly authorized officer of the Planning Board shall be affixed to the final plat. Within sixty (60) days from the date of such signature denoting final approval, the final plat or approved sections thereof shall be duly filed by the applicant in the office of the County Clerk.
- I. If at any time the Planning Board does not take action within the prescribed time, the applicant can assume approval of that stage of the process. When the Planning Board does not take action within the prescribed time on the final plat, the developer may take a copy of the certificate of submission and the final plat and file them in the County Clerk's office.

#### **ARTICLE IV Required Information**

##### **56-18. All plats.**

The following information shall be required for all plat submissions:

- A. Name, address and telephone of subdivider and owner, if different person, and all professional advisors, including license numbers and seals.
- B. Map of original parcel, drawn to scale, one (1) inch to one hundred (100) feet, showing
  - (1). Subdivision name, tax map number, North arrow and date.
  - (2). Subdivision boundaries, contiguous properties and names of owners.
  - (3). Existing roads, utilities and structures.
  - (4). Watercourses, marshes, vegetation, bedrock, wooded areas, public facilities

and other unique or significant physical features on or near the site.

(5). Proposed pattern of lots, including lot widths and depths, road layouts, open space, sewerage and water supply.

(6). On-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health, and a statement to this effect shall be made on the subdivision map.

(7). Drainage plan, including profiles and lines or ditches and drainage easements on adjoining properties.

(8). Land contours at two-foot intervals.

C. Copy of Tax Map(s).

D. Existing restrictions on the use of land, including agricultural districts and zoning. Copies of such covenants or deed restrictions as are intended to cover all or part of this plat.

E. Total acreage of subdivision and number of lots proposed.

F. Building types, approximate size and cost.

G. Evidence of legal ownership of property, deed, land contract, etc.

H. Environmental assessment form or impact statement.

▪ **56-19. Minor subdivision final plats.**

The following shall be submitted with all applications for approval of a final plat for a minor subdivision.

- A. One (1) copy of the plat to be submitted to the County Clerk, drawn with ink on appropriate materials, plus two (2) copies.
- B. Information specified under ' 56-18, updated and accurate.
- C. Additional information as deemed necessary by the Planning Board.
- D. Any required fees.

▪ **56-20. Major subdivision preliminary plat.**

The following shall be submitted with all applications for approval of a preliminary plat for a major subdivision.

- A. Three (3) copies of the plat map, drawn to scale.
- B. All information specified under ' 56-18, updated and accurate.
- C. All parcels of land proposed to be dedicated to public use and the conditions of such use.
- D. Grading and landscaping plans.
- E. Plans and cross-sections showing sidewalks, road lighting, road trees, buffers, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of roads and subbase and the location of any underground utilities.
- F. Preliminary designs for any bridges or culverts.
- G. An actual field survey of the boundary lines of the tract, giving complete description by bearings and distances, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.
- H. Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the undeveloped part shall be submitted for study to the Planning Board.

- I. Any additional information as deemed necessary by the Planning Board.
- J. Any required fees.

▪ **56-21. Major subdivision final plat.**

The following shall be submitted with all applications for approval of a final plat for a major subdivision:

- A. One (1) copy of the plat to be submitted to the County Clerk, drawn with ink on suitable material, plus two (2) copies. The map scale shall be one (1) inch to one hundred (100) feet unless otherwise specified by the Planning Board.
- B. Proposed subdivision name and the name of the town and county in which the subdivision is located; the name, address and telephone number of the record owner and the subdivider; name, address, telephone number, license number and seal of the surveyor and engineer.
- C. Road lines, pedestrianways, lots, easements and areas intended to be dedicated to public use.
- D. Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line and boundary line and to reproduce such lines on the ground.
- E. The length and bearing of all straight lines, radii, length of curves and central angles of all curves; tangent bearings shall be given for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, location, graphic scale and true North point.
- F. All offers of cession and any covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- C. Permanent placement markers shall be shown and constructed in accordance with Planning Board specifications.
- H. Approval of the State Health Department of public or private water supply systems proposed or installed.
- I. An approved environmental impact statement.
- J. Construction drawings, including plans, profiles and typical cross-sections, as required, showing proposed location, size and type of roads, sidewalks, road lighting standards, landscaping, curbs, water mains or wells, sanitary sewer or

septic systems, storm drains or ditches, pavements and subbase and other facilities.

K. Deed restrictions, existing and proposed in form for recording.

L. Under ' 277 of the Town Law, the Planning Board may require a performance bond designed not only to insure the installation of improvements but to do so in a satisfactory manner. The bond must be in an amount equal to the cost of the improvement. The bond shall bear the certificate of approval of the Town Attorney as to its legal sufficiency.

M. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board to enable enforcement of these agreements.

#### **' 56-22. Waiver of requirements.**

The Planning Board may waive, subject to appropriate conditions, the provision of any or all of such improvements and requirements as, in its judgment of the special circumstances of a particular plat or plats, are requisite in the interest of the public health, safety and GENERAL welfare or which, in its judgment, are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

### **ARTICLE V Design Standards and Required Improvements**

#### **' 56-23. Road design standards.**

A. Conformity with General Plan. The arrangement, width, location and extent of local roads and all secondary roads should conform to and be in harmony with the General Plan for the town. Roads not in the General Plan should conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of land. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.

B. Arrangement. Residential local roads shall be designed to discourage through traffic whose origin and destination is not within the subdivision.

C. Location. When a proposed subdivision is adjacent to or contains a state

highway, the Planning Board may seek information from the New York State Department of Transportation as to the status of said highway in reference to right-of-way and direction. The Planning Board may require a marginal road(s) approximately parallel to and on each side of such a right-of-way at a distance suitable for an appropriate use of the intervening land as for park purposes in residential districts or for commercial or industrial purposes. Such distance shall also be determined with due regard for the requirements of approach grades and future grade separation. Railroad right-of-way shall receive similar consideration.

- D. Intersections. Roads shall intersect one another at angles as near to a right angle as possible, and no intersection of roads at angles less than sixty degrees (60°) shall be approved. Road intersections shall be rounded with a radius of twenty-five (25) feet measured at right-of-way line when said intersection occurs at right angles. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve of radius acceptable to the Planning Board. Road jogs with center line offsets of less than one hundred twenty-five (125) feet shall be prohibited.
- E. Dead-end roads. Each dead end road shall be provided with a turnaround deemed sufficient by the Town Highway Superintendent for snowplowing.
- F. Half roads. Dedication of a half road shall be prohibited, except when essential to the reasonable development of the subdivision in conformity with other requirements of these regulations, and where the Planning Board finds that it will be practicable to require the dedication of the other half which is adjacent to a tract to be subdivided, the other half shall be platted within such tract.
- G. Access. In commercial and industrial subdivisions, definite and assured provision shall be made for service access, such as off-road parking, loading and unloading, consistent with and adequate for the uses proposed.
- H. Names and numbers. Names of new roads shall not duplicate existing or platted roads in the town or surrounding communities. New roads which are extended or in alignment with existing roads shall bear the name of the existing roads. House numbers shall be assigned in accordance with the house numbering system now in effect in the town.
- I. Road signs. The subdivider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections prior to acceptance of the constructed roads.
- J. Trees. If road trees are provided, they should be outside of the road right-of-way and planted in such a manner as not to impair visibility at any corner(s).



K. Standards for road design. Standards for road design are as follows:

<b>Standards</b>	<b>Local Road</b>	<b>Secondary Roads</b>
Minimum width of right-of-way (feet)	50	65
Minimum width of pavement (feet)	18	18
Minimum width of shoulders (feet)	5	6
Minimum radius of horizontal curves (feet)	250, except for road intersection corners	400
Minimum length of vertical curves (feet)	250, except for road intersection corners	300
Minimum length of tangents between reverse curves (feet)	Shall be such that at least a 200-foot line of sight exists measured 3 feet above the road surface	200
Maximum grade (percent)	10	6 to 8
Minimum grade (percent)	1	1
Minimum braking sight distance (feet)	400	500

▪ **56-24. Road construction standards.**

A. Road improvements, including curbing, shall be installed at subdivider's expense.

B. Roads shall be built with:

- (1). Subgrade, which shall be rough-graded the full width of the road right-of-way and compacted the full width between the outer edges of the curbs and gutter. The subbase shall consist of a suitable gravel and stone material approved by the Highway Superintendent and compacted to a depth approved by the same.
- (2). Base course, consisting of a suitable gravel and stone material approved by the Highway Superintendent at least six (6) inches in depth after compaction and stabilization.
- (3). Surface course, consisting of an approved bituminous material.

- (4). Finish course, consisting of an approved bituminous material to be laid one (1) year after the surface course.

▪ **56-25. Sidewalks.**

- A. Sidewalks shall be installed at the subdivider's expense at such locations approved by the Planning Board.
- B. Sidewalks must be constructed to comply with the detail specifications of the final plan.

▪ **56-26. Utilities.**

Public utility improvements may be required and shall be installed as follows:

- A. Fire protection. Hydrants are to be of a size, type and location specified by the National Board of Fire Underwriters, American Insurance Association.
- B. Streetlighting. Poles, brackets and lights are to be of a size, type and location as approved by the Town Board and the local power company.
- C. Electricity. Power lines shall be placed underground and shall be approved by the local power company.
- D. Utility services shall be placed underground when possible and shall meet industry standards.

▪ **56-27. Lots.**

- A. Dimensions. The lot size, width, depth, shape and area shall comply with the Town Zoning Law unless a waiver is granted.
- B. Double frontage lots. Frontage on two (2) roads other than corner lots will not be allowed.
- C. Pedestrian easements. In order to facilitate pedestrian access from roads to schools, parks, play areas or nearby roads, perpetual unobstructed easements at least twenty (20) feet wide may be required by the Planning Board. In heavy traffic areas, sidewalks may be required in addition.

- D. Setback. Provisions of the Town Zoning Law shall apply regarding setback lines.
- E. Corner lots. Lots of residential use shall have extra width to permit appropriate building setback from and orientation to both roads.

▸ **56-28. Unique and natural features.**

Unique physical features, such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours and similar features, shall be preserved where possible. All surfaces must be graded and restored within six (6) months. Topsoil moved during construction shall be returned and stabilized by approved methods. Damage to trees should be avoided.

▸ **56-29. Public open spaces and sites.**

- A. Consideration shall be given to the allocation of areas suitably located for community purposes as indicated on the General Plan and shall be made available by one (1) of the following methods:

- (1). Dedication to the town.

- (2). Reservation of land for the use of property owners by deed or covenant.

- B. If the Planning Board determines that suitable park or parks of adequate size cannot be properly located in the plat or is otherwise not practical, the Board may require as a condition of approval of the final plat a payment to the town of a sum to be determined by the Town Board, which sum shall constitute funds to be held in trust and used by the town exclusively for neighborhood park, playground or recreational purposes, including the acquisition of property.

- C. The Planning Board may require the reservation of such area(s) or site(s) of a character, extent and location suitable for the needs of the town, such as water and sewage treatment plant, water tower and other community purposes not anticipated in the General Plan.

▸ **56-30. Land unsuitable for subdivision.**

As a safety measure for the protection of the health and welfare of the people of the town, land which is found to be unsuitable for subdivision due to harmful features (e.g., drainage problems) shall not be subdivided until adequate methods are formulated by the subdivider and approved by the Planning Board. Before final approval, the subdivider shall, in lieu of the improvements, furnish a letter of credit or certified check covering the

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cost of the required improvement.

**Chapter 59**

**TAXATION**

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**Tax Exemption for Senior Citizens  
Updated 1/17/06**

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**ARTICLE IV**

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**Tax Exemption for Enrolled Volunteer  
Firefighters and Ambulance Workers**

- **59-13. Legislative Intent**
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-

## ARTICLE I

### Tax Exemption for Senior Citizens

#### ▮ 59-1. Legislative Authority

The legislative authority for this local law is Real Property Tax Law Section 467.

#### ▮ 59-2. Exemption Provided

a. Real property situate within the bounds of the Town of Canton, St. Lawrence County, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife or siblings (i.e. a brother or sister, whether related through half blood, whole blood or adoption), one of whom is 65 years of age or over, shall be exempt from taxation for real estate taxes to be levied by the Town of Canton for the year commencing with the School taxes of 2006-07 and thereafter by the percentage of exemption specified for the annual income ranges listed below. Such exemption shall be based upon the assessed valuation of the exempt real property and shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

<u>Annual Income Ranges</u>	<u>Exemption Percentage</u>
(1) \$20,000.00 or less	50%
(2) \$20,000.01 to \$20,999.99	45%
(3) \$21,000.00 to \$21,999.99	40%
(4) \$22,000.00 to \$22,999.99	35%
(5) \$23,000.00 to \$23,999.99	30%
(6) \$23,900.00 to \$24,799.99	25%
(7) \$24,800.00 to \$25,699.99	20%
(8) \$25,700.00 to \$26,599.99	15%
(9) \$26,600.00 to \$27,499.99	10%
(10) \$27,500.00 to \$28,399.99	5%

b. Annual income shall include the income of the owner or the combined income of the owners of the property for the income year immediately preceding the date of making an application for exemption. Income tax year shall mean the twelve (12) month period for which the owner or owners filed a Federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum except where the husband or wife, or ex-husband or ex-wife, is absent from the property as provided in subparagraph (ii) of paragraph (d) of the subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest,

dividends, total gain from the sale or exchange of a capital asset which may be offset by the loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts or inheritances or monies earned through employment in the federal foster grandparent program. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

c. The title of the property shall have been vested in the owner or one of the owners of the property for at least twelve (12) consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of either a husband or a wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twelve (12) consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation. Where the owner or owners transfer title to property which as of the date of transfer was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine (9) months of the date of transfer shall be deemed to satisfy the requirements of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve (12) consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which as of the date of such death was exempt from taxation under such provisions becomes vested by virtue of devise or descent from the deceased owner or owners, or by transfer by any other means, within nine (9) months after such death, solely in person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this paragraph that the title of the property shall have been vested in the owner or one of the owners for such period of twelve (12) consecutive months shall be deemed satisfied.

d. The property is used exclusively for residential purposes, provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to



taxation and the remaining portion only shall be entitled to the exemption provided by this section.

e. The real property is the legal residence of and is occupied in whole or part by the owner or by all of the owners of the property, except where: (1) an owner who is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in Section 2801 of the Public Health Law, and provided that any income accruing to that person shall only be income to the extent that it exceeds that amount paid by such owner, spouse or co-owner for care in the facility; and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or (2) the real property is owned by a husband and /or wife, or an ex-husband and /or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met, provide that where an exemption was previously granted when both resided on the property, than the person remaining on the property shall be sixty-two (62) years of age or older.

▪ **59-3. Application for Exemption**

- a. Application for such exemption must be made by the owner or all the owners of the property on forms to be furnished by the Town of Canton Assessor's Office; such applications shall furnish the information, and the forms are to be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's Office on or before the date for hearing of complainants in the Town of Canton. Any person otherwise qualifying under the section shall not be denied the exemption under this section if he/she becomes sixty-five (65) years of age after the appropriate taxable status date on or before December 31 of the same year.
- b. At least sixty (60) days prior to the appropriate taxable status date, the assessors shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to be granted. The assessors shall, within three (3) days of the completion of and filing of the tentative assessment roll, notify by mail any applicant who has included with this application at least one self-addressed, pre-paid envelope, of the approval or denial of the application, provided however that the assessors shall, upon receipt and filing of the application, send mail notification of receipt to any applicant who has included two such envelopes with the application. Failure to mail any such application form or notices or the failure of such person to receive any of the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person. The assessors shall mail as soon as possible the application in the year 2004, knowing that it is impossible to give sixty (60)

days; notice due to the adoption date of this Local Law.

- c. Any person who has been granted exemption pursuant thereto on five (5) consecutive completed assessment rolls, including any years when the exemption was granted to a property owned by a husband and /or wife while both resided in such property, shall not be subject to the requirements set forth in paragraph (b) of this section; however, said person shall be mailed an application form and a notice informing his/her of his/her rights. Such exemption shall automatically be granted on each subsequent assessment roll. Provided, however, that when tax payment is made by such person a sworn Affidavit must be included with such payment that shall state such person continues to be eligible for such exemption. Such Affidavit shall be on a form prescribed by the State Office of Real Property Services. If such Affidavit is not included with the tax payment, the collecting officer shall proceed pursuant to Section 551-a of this chapter.
- d. (1) Notwithstanding the provisions of subparagraph "a" of this section, where a person who meets the requirements for an exemption, pursuant to this ordinance, purchases property after the levy of taxes, such person may file an application for exemption to the assessor within thirty (30) days of the transfer of title to such person. The assessor shall make a determination of whether the parcel would have qualified for exempt status on the tax roll on which the taxes were levied, had title to the parcel been in the name of the applicant on the taxable status date applicable to the tax roll. The application shall be on a form prescribed by the State Office of Real Property Services. The assessor, no later than thirty (30) days after receipt of such application, shall notify both the applicant and the Board of Assessment Review, by first class mail, of the exempt amount, if any, and the right of the owner to a review of the exempt amount upon the filing of a written complaint. Such complaint shall be on a form prescribed by the Board of Assessment Review and shall be filed with them within twenty (20) days of the mailing of this notice. If no complaint is received, the Board of Assessment Review shall notify the assessor and the exempt amount determined by the assessor shall be final. If the applicant files a complaint, the Board of Assessment Review shall schedule a time and place for a hearing with respect thereto no later than thirty (30) days after the mailing of the notice by the assessor. The Board of Assessment Review shall meet and determine the exempt amount and shall immediately notify the assessor and the applicant, by first class mail, of its determination. The amount of exemption determined pursuant to this paragraph shall be subject to review as provided in Article 7 of the Real Property Tax of the State of New York. Such a proceeding shall be commenced within thirty (30) days of the mailing of the notice of the Board of Assessment Review to the new owner as provided in this paragraph.

(2) Upon receipt of a determination of exempt amount as provided in subparagraph (1) of this paragraph, the assessor shall determine the pro-rata exemption to be credited toward such property by multiplying the tax rate or tax rates for each municipal corporation which levied taxes, or for which taxes were levied, on the appropriate tax roll used for the fiscal year or years during which the transfer occurred times the exempt amount, as determined in subparagraph (1) of this paragraph, times the fraction of each fiscal year or years remaining subsequent to the transfer of title. The assessor shall immediately transmit a statement of the pro-rata exemption credit due to each municipal corporation which levied taxes or for which taxes were levied on the tax roll used for the fiscal year or years during which the transfer occurred and to the applicant.

(3) Each municipal corporation which receives notice of pro-rata exemption credits pursuant to this subdivision shall include an appropriation in its budget for the next fiscal year equal to the aggregate amount of such credits to be applied in that fiscal year. Where a parcel, the owner of which is entitled to a pro-rata exemption credit, is subject to taxation in said next fiscal year, the receiver or collector shall apply the credit to reduce the amount of taxes owed for the parcel in such fiscal year. Pro-rata exemption credits in excess of the amount of taxes, if any, owed for the parcel shall be paid by the treasurer of the municipal corporation which levies such taxes for or on behalf of the municipal corporation to all owners of property entitled to such credits within thirty (30) days of the expiration of the warrant to collect taxes in said next fiscal year.

- e. (1) Notwithstanding the provisions of paragraph "a" of this section, where a person who meets the requirements for an exemption pursuant to this ordinance purchases property after the taxable status date, but prior to the levy of taxes, such person may file an application for an exemption to the assessor within thirty (30) days of the transfer of title to such person. The assessor shall make a determination within thirty (30) days after receipt of such application of whether the applicant would qualify for an exemption pursuant to this section on the assessment roll if title had been in the name of the applicant on application shall be made on a form prescribed by the State Office of Real Property Services.

(2) If the assessor's determination is made prior to the filing of the tentative assessment roll, the assessor shall enter the exempt amount, if any, on the tentative assessment roll and, within ten (10) days after filing such roll, notify the applicant of the approval or denial of such exemption, the exempt amount, if any, and the applicant's right to review by the Board of Assessment Review.

(3) If the assessor's determination is made after the filing of the tentative assessment roll, the assessor shall petition the Board of Assessment Review to correct the tentative or final assessment roll in the manner provided in Title 3 of Article 5 of the

Real Property Tax Law, with respect to unlawful entries, in the case of wholly exempt parcels, and with respect to clerical errors, in the case of partially exempt parcels, if the assessor determines that an exemption should be granted and , within ten (10) days of petitioning the Board of Assessment Review, notify the applicant of the approval or denial of such exemption, the amount of such exemption, if any, and the applicant's right to administrative or judicial review of such determination pursuant to Article 5 or Article 7 of the Real Property Tax Law, respectively.

- f. If, for any reason, a determination to exempt property from taxation as provided in paragraph "e" of this section is not entered on the final assessment roll, the assessor shall petition the Board of Assessment Review to correct the final assessment roll.
- g. If, for any reason, the pro-rata tax credit as provided in paragraph "d" of this section is not extended against the tax roll immediately succeeding the fiscal year during which the transfer occurred, the assessor shall immediately notify the municipal corporation which levied the tax or for which the taxes were levied of the amount of pro-rata exemption credits for the year in which such transfer occurred. Such municipal corporation shall proceed as provided in subparagraph (3) of paragraph "d" of this section.
- h. If, for any reason, a determination to exempt property from taxation as provided in paragraph "e" of this section is not entered on the tax roll for the year immediately succeeding the fiscal year during which the transfer occurred, the assessor shall determine the pro-rata tax exemption credit for such tax roll by multiplying the tax rate or tax rates for each municipal corporation which levied taxes, or for which taxes were levied, times the exempt amount and shall immediately notify such municipal corporation or corporations of the pro-rata exemption credits for such tax roll. Such municipal corporation shall add outstanding pro-rata exemption amounts and proceed as provided in subparagraph (3) of paragraph "d" of this section.

#### ▸ **59-4. Penalties**

The making of any willful false statement in the application for an exemption under this ordinance shall be a violation thereof, and a conviction for any such violation shall be punishable by a fine of not more than \$100.00 and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

#### ▸ **59-5. Separability**

Should any section, paragraph, sentence, clause or phrase of this Local Law be

declared unconstitutional or unjust for any reason by a Court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

▮ **59-6. Inconsistency**

All resolutions, ordinances or local laws or portions thereof of the Town of Canton not consistent with this ordinance, in whole or in part, shall be repealed.

▮ **59-7. Effective Date**

This local law shall take effect upon its filing with the New York State Secretary of State.

## **ARTICLE II**

### **Tax Exemption for Veterans**

▮ **59-8. Grant of Exemptions.**

The primary residence of (1) a veteran of the United States Armed Services who actively served during a period of war, (2) a veteran who received a particular expeditionary medal, or under certain conditions: (3) a veteran of the merchant marine service, (4) a veteran of the American Field Service, or (5) a veteran who served as a Pan American World Airways flight crew and aviation ground support employee may be eligible for partial exemption from general municipal taxes. No exemption is allowed for school district taxes, special advalorem levies, or special assessments. Jurisdictions which allow the alternative veterans exemption may not grant any eligible funds (former RPTL ' 458(1)) or pro rata veterans exemptions (former RPTL ' 458(5)) after March 2, 1986.

▮ **59-9. Exemption Reduced.**

The percentage exemption that applies to the assessed value of a qualifying property depends on the nature of the veteran's service. Veterans who were on

active duty during a period of war are eligible for a 15% exemption (not to exceed the \$6,000 multiplied by the latest final state equalization rate (or special equalization rate) or, in the case of special assessing units, the latest class ratio). An additional exemption of 10% (not to exceed the \$4,000 multiplied by the latest final state equalization rate, special equalization rate, or class ratio) is available for those who served in combat zones. Veterans who sustained service - related disabilities, as evidenced by receipt of a disability compensation rating from the Veterans Administration of the Department of Defense, are eligible for a percentage exemption equal to one half of their disability rating (not to exceed \$20,000 multiplied by the latest final state equalization rate, special equalization rate, or class ratio) in addition to the wartime and combat zone exemptions. Veterans who died in service of a service - connected disability are considered to have a disability rating 100%.

### **ARTICLE III**

#### **Tax Exemption for Physically Disabled Persons**

▮ **59-10. Purpose.**

The purpose of this Article is to exempt from real property taxes property owned by certain physically disabled persons as authorized by ▮ 459 of the New York State Real Property Tax Law.

▮ **59-11. Exemption Granted.**

Pursuant to the provisions of ▮ 459 of the New York State Real Property Tax Law, an improvement to any real property in the Town of Canton used solely for residential purposes as a one- , two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to such improvement if such improvement is used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled or a member of the resident owner's household who is physically disabled, if such member resides in the real property.

▮ **59-12. Applicability.**

- A. Such exemption shall apply to improvements constructed on or after January 1, 1994.
- B. This Article shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 1, 1995.

**ARTICLE IV**  
**Tax Exemption for Enrolled Volunteer**  
**Firefighters and Ambulance Workers**

▮ **59-13. Legislative Intent**

The legislature recognizes the role of the volunteer firefighters and ambulance workers in securing the safety and well-being of our communities. The legislature hereby finds that it is in the best social and economic interests of the County of St. Lawrence to encourage volunteerism for said purposes. To that end, by providing the following exemption it is the intent to so encourage volunteerism for our various fire and ambulance companies.

▮ **59-14. Exemptions**

- (a) Real property owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing in St. Lawrence County shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property for county purposes, exclusive of special assessments, provided, however, that such exemption shall in no event exceed \$3,000.00 multiplied by the latest state equalization rate for the assessing unit in which such real property is located.
- (b) Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service residing in such county unless:

- (i) The applicant resides in the city, town or village which is served by such incorporated volunteer fire company or fire department or incorporated ambulance service;
  - (ii) The property is the primary residence of the applicant;
  - (iii) The property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not exclusively used for the applicant's residence but is used for other purposes, such portion to be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;
  - (iv) The incorporated volunteer fire company or fire department and incorporated voluntary ambulance service has submitted to the St. Lawrence County Director of Emergency Services a complete list of enrolled members, with their respective dates of service for such incorporated voluntary fire company, or fire department, or incorporated voluntary ambulance service. The St. Lawrence County Director of Emergency Services shall then review all potential candidates and certify those who meet the necessary criteria to be eligible for this exemption.
- (c) Application for such exemption shall be filed with the assessor on or before the taxable status date on a form as prescribed by the state board.
- (d) No applicant who is a volunteer firefighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provisions of this section.

▮ **59-15. Effective Date**

This local law shall take effect upon it's filing with the New York State Secretary of State and shall apply to real property having a taxable status on or after the 1<sup>st</sup> day of January, 2006, next succeeding the date on which this act shall become law.



Town Board Passed on 8/16/05

**Chapter 63****VEHICLES AND TRAFFIC****ARTICLE I****Winter Parking Restrictions**

- **83-1. Parking on town highways.**
  - **63-2. Penalties for offenses.**
- 

**ARTICLE I****Winter Parking Restrictions**

[Adopted 12-11-79)

- **63-1. Parking on town highways.**

No person shall park a motor vehicle during the hours of 1:00 a.m. to 6:00 a.m. between November 1 and the succeeding April 1 on or adjacent to any town highway.

- **63-2. Penalties for offenses.**

For a first violation of this Article said person shall be subject to a fine not to exceed twenty-five dollars (\$25.) and for the second and each subsequent violation to a fine not exceeding fifty dollars (\$50.). In addition to the fines to be imposed, any person violating this Article shall be liable for the cost of removal of said automobile.

## **ZONING**

### **Chapter 70**

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- § 70-2. Purpose.
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- § 70-5. Penalties for offenses; injunctions.
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§ 70-76. Appointment of members.

§ 70-77. Officers; rules; expenses.

§ 70-78. Functions.

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§ 70-80. Area variance policy.

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

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§ 70-91. Agricultural Data Statement.

§ 70-92. Amendment Procedures.

**ARTICLE XIII**  
**Article 78 Procedures**

§ 70-93 Article 78 Procedures.

**[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.**

- 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 §70-43-c, 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.

**§ 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 here-in 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.

Except as may be specifically defined within this local code, all terms or phrases shall be as defined in "**The Zoning Dictionary**", **Lehman and Associates, 113 Collier St., Barrie, Ontario, Canada, L4M1H2**, for this Zoning Code. Copies are available in the Town Clerk's Office, the Code Enforcement Officer's Office, the Canton Free Library and from the Planning Board and the Zoning Board of Appeals.

### **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).**

- 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 excluding mobile homes.
- C. Permitted accessory uses.
  - 1. Uses and structures customarily incidental to permitted, special permit & site plan review uses and structures.
- D. Special Permit: (subject to special permit use regulations, Article VII).
  - 1. Church.
  - 2. Conversion of one-family dwelling into two (2) units, one (1) of which is owner occupied. The minimum square footage for the second dwelling is 350 square feet.
  - 3. Home occupations.
  - 4. Camping Grounds.
  - 5. Institutional uses.
- 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)**

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 and two family dwellings.
2. Mobile 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. Day-care centers.
3. Motorized vehicle and equipment sales and service and fuel outlet, with or without convenience store.
4. Multiple family dwellings.
5. Camping ground.
6. Mobile home park.
7. Home occupation.
8. Agricultural structures\uses.
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.

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 ( $\frac{1}{2}$ ) acre.

**§ 70-24. Rural Zone (R).**

Updated 3/11/03

- 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.
  - 2. One- and Two-Family Dwellings.
  - 3. Mobile 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 (retail, personal and professional services, professional offices...), compatible with the surrounding character and aesthetics of the neighborhood.
  - 5. Mobile Home Park.
  - 6. Multiple Family Dwellings.
  - 7. Kennels and Animal Hospitals.
  - 8. Junkyards.
  - 9. Institutional Uses.
  - 10. Recreational Facilities.
  - 11. Transfer Stations / Recycling Centers.
- 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 3/8/05

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 & 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.

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.
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.

**§ 70-26. 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, non-commercial 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 un-roofed 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.**

This section is designated to reduce problems caused by inadequate or poorly designed parking facilities.

- A. All uses shall provide off-street parking for all vehicles parked during typical peak use periods. Parking shall be designed to eliminate the need to back out onto any public road. Multiple dwellings and commercial developments must comply with general requirements for facilities for physically handicapped in the New York State Uniform Fire & Building Code.
- B. A parking space shall not be less than ten by twenty (10 X 20) feet, exclusive of accessways and driveways. Single-family residences need not exclude driveway area.
- C. Off-street parking areas for nonresidential uses shall provide access to parking spaces.
- D. Minimum standards supplementary to the basic standard cited above are as follows:
  - 1. One (1) parking space for every three (3) seats in a public meeting place.
  - 2. One (1) parking space for each employee in the largest shift at places of employment.
  - 3. Two (2) parking space for the first one-thousand (1000) square feet of gross floor area plus one (1) parking space for every two hundred (200) square feet over the 1000 sq. ft. of gross floor area in business and professional offices.
  - 4. Two (2) parking spaces per dwelling unit must be provided.
  - 5. Design criteria relative to parking lots. (See Appendix A)

**§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.**

Fences erected 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.
- B. No fence shall cause an obstruction to vision at an entrance or exit on a road or at an intersection.
- C. Razor wire is not allowed.

### **§ 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, pick-up 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 7/9/02

**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 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) not to exceed three (3) square feet in size.
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 day period in any zone, provided that the sign will not constitute a traffic hazard and the property owner has given permission. Said sign shall be removed within forty-eight hours after the advertised event.
4. Temporary unlighted real estate development or construction signs, not exceeding 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 10 square feet. Such signs shall be removed within forty-eight hours when the project or sale is completed.

**C. General Provisions**

1. No sign shall contain lights which flash or move or appear to move. Sign lights must be shielded or directed to minimize the impact on neighboring property.
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 (20) 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. Signs shall be limited to advertising only the business or businesses on the premises.

7. Permanent signs shall not be for the purpose of making advertising claims with respect to products sold on the premises, e.g. lottery tickets sold here, Budweiser, coca-cola, etc.
8. 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.
9. 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 10 feet in width. The header sign shall not exceed 120 square feet. Lettering on the ladder sign shall be consistent where practical. Signs shall be allowed at each entrance to the location.
10. When the location of a business is not readily apparent, an off-premises directional sign shall be allowed. Not to exceed 18 inches high and 24 inches long, with no larger than 3 inch lettering. The business must have the permission of the property owner on which the sign is located.
11. 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.
12. Any sign adjacent to a residentially used property must be at least fifteen (15) feet from the adjoining property line.

D. Additional signage regulations.

1. Signage per site.

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

For Example:

- a. 2 free standing signs, each 4' X 8' (each 4 X 8=32 square feet), would equal 64 square feet (32 + 32 = 64) and therefore be allowed.
  - b. 2 free standing signs, one 10' X 8' (10 X 8 = 80 square feet) and one sign 4' X 6' (4 X 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.

Foot Note: 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.

## **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, § 274-b, 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 stormwater 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 off-street 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.**

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

#### **§ 70-60. Airports.**

A Special Permit is needed for any zone.

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:

- A. Name and address of the proponent.
- B. Classification of the proposed airport (commercial, non-commercial or restricted).
- C. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.).
- D. Number of aircraft expected to be based at the airport initially and within five (5) years.
- E. Type of aircraft expected to be based at the airport (single engine, multi-engine, turboprop, etc.).
- F. Whether an instrument approach procedure will be offered.
- G. Statement as to the anticipated number of daily operations.
- H. Copy of the airspace clearance granted by the Federal Aviation administration for this airport, including United States Geological Survey topographic map.
- I. 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.

- J. A site plan of the airport, as approved by the Planning Board, which includes the following, in addition to other site plan requirements given in Article IX:
  - 1. Scale no smaller than one (1) inch equals one hundred (100) feet.
  - 2. Location of existing and proposed structures.
  - 3. Alignment of existing and/or proposed runways shall be shown in exact location and magnetic bearing to the nearest thirty (30) minutes.
  - 4. Existing and proposed contours at five-foot intervals.
  - 5. Location of aircraft parking and tie-down areas.
  - 6. Provisions for access and off-street parking.
  - 7. Provisions for sanitary waste disposal and water supply.
  - 8. Location and method of fuel storage.
  
- K. An area map at a scale of no less than one (1) inch equals five hundred (500) feet showing:
  - 1. Distances, power lines or other possible obstructions within two thousand (2,000) feet of the ends of runways shall be accurately plotted in an area extending out from each side of the runway at a 45 degree angle.
  - 2. Properties within five hundred (500) feet shall be plotted and identified.
  
- L. 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.

#### **§ 70-61. 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 or 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 non-compliance 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.**

- A. Definition: A retail business, personal or professional service operation or commercial offices of limited size which is primarily designed to meet the immediate and occasional needs of the neighboring community.
- 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, shall 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 proper 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 four (4) 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

**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 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 feet in any commercial zone and shall not exceed a height of one hundred feet in any other zone.

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 on-site 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 Section 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.



## **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 70-43c; 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 § 70-13 b 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.**

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.

### **§ 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 § 274-a 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 section 70-90 of these Regulations.
- I. Referral to County Planning Board as required by 239-m of the General Municipal Law.

**ARTICLE XI**  
**Zoning Board of Appeals; Variances**

**§ 70-76. Appointment of members.**

Updated 6/13/00

- 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 authorizes the appointment of two (2) alternate members of the Zoning Board of Appeals. The term for the alternate members shall be one (1) year, with the appointment being made at the organizational meeting of the Town in January.

**§ 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 §70-84 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 Section 239-m, 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**

- 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 Ordinance.
- 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 Ordinance.
- C. **Hearing.** Before any amendment, supplement or change is made to this Ordinance, there shall be a public notice and hearing as required by law. Written notice of the hearing shall be provided to all owners of land located within 500 feet of real property affected by such amendment except where such land affected is outside the town. 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 Ordinance 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.**

Revisions after complete Code Revision.  
7/29/99, 6/13/00, 9/11/01, 7/9/02, 3/11/03

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**6/8/99**

**REVISION TO COMPLETE CODE PASSED BY TOWN BOARD**

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Typo Corrections passed by the TOWN BOARD 7/29/99  
**§ 23-5-B-2-a, b, & c; § 23-11; § 23-12; § 27-4-B; § 29-4; § 19-3-C.**

LOCAL LAW 1 for 2000 passed by the TOWN BOARD 6/13/00  
Revision  
**Zoning Board of Appeals**  
**§ 70-76** Appointment of members.  
**§ 70-77** Officers; rules; expenses.

LOCAL LAW 1 FOR 2001 PASSED BY THE TOWN BOARD 9/11/01  
**§56-10 SUBDIVISIONS**  
Change ro Definition of Subdivision  
**§70-34 ZONING MAXIMUM BUILDINGS PER LOT SIZE**  
Changed  
Typo Corrections:  
**§2-5; §9-1-A; §23 II; §56 Table of Contents; §56 I; §70 Table of Contents;**  
**§70-26; §70-31; §70-55; §70-78; §70-84.**

LOCAL LAW 1 FOR 2002 PASSED BY THE TOWN BOARD 7/9/02  
Revision:  
**§ 70-42 Signs.**

LOCAL LAW 1 FOR 2003 PASSED BY THE TOWN BOARD 3/11/03

Revision:

**§ 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.**

4/03 Moved Zoning Chapter (Section 70) file from Word Perfect to Word. Some page numbers are different & some pages have more or less on them, but the Chapter has not been altered.

Revision Prior to Zoning Code Revision.

2/1/97, 3-3-97, 3/6/97, 3/17/97, 3/24/97, 3/31/97, 4/8/97, 6/9/97

Revisions after Zoning Code Revision & prior to Complete Code Revisions.

11/12/97, 2/10/98, 3/17/98, 9/14/98

## **AMENDMENTS TO CODE**

ZONING LAW (Chapter 70) REVISION Passed by the TOWN BOARD 7/8/97

edit for errata 11/12/97

Passed by the TOWN BOARD 2/10/98 Revised the Revision 3/17/98

Revision:

**§ 70-44. Storage Restrictions.**

Passed by the TOWN BOARD 9/14/98

New Section:

**§ 70-66 Wireless Communications Facility.**

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**Local law 2 of 2005 Passed by Board 3/8/05**

**Zoning Code Sec.70-25 Commercial Zone**

**Local law 3 of 2005 Passed by Board 8/16/05**

**Tax Exemptions for Volunteer Firefighters and Ambulance Workers**

**Local law 1 of 2006 Passed by Board 1/17/06**

**Tax Exemptions for Senior Citizens**

## CHANGES TO ZONED AREAS

6/8/93

Approved Commercial PUD for Kurt Tracy on State Route 68  
Tax Map Number 73.002-4-10.12

8/95

Changed 3 lots from Residential Zone to Commercial Zone:  
Richard Sheridan's lot & 2 other lots on Canton Russell Road.

7/8/97

Changed following to Commercial Zone

1. Rt. 11 south of the Village Line to the Eddie Pyrites Road, bounded on the west by the railroad property and bounded on the east by 800' beyond the east side of Old Rt. 11, including all the area in-between.
2. Both sides of Rt. 68 north west of the Village from the Village line to the Wild Life Management Area, excluding public property.
3. Both sides of Rt. 11 north of the Village from the railroad overpass to the Town Line.
4. Section of Russell Road including Nautells, the Meadows Restaurant and Legault's.

Commercial zone is 800 feet deep from the center of the road.

Extended Residential Zone on Miner Street Road from Jingleville Road to the line between the five (5) & six (6) mile squares. The width most of the way to the Jingleville Road is approximately 500 feet & the width of the additional area is approximately 1000 feet.

## **NEW COMMERCIALLY ZONED AREAS**

7/8/97

1. Rt. 11 south of the Village Line to the Eddie Pyrites Road, bounded on the west by the railroad property and bounded on the east by 800' beyond the east side of Old Rt. 11, including all the area in-between.
2. Both sides of Rt. 68 north west of the Village from the Village line to the Wild Life Management Area, excluding public property.
3. Both sides of Rt. 11 north of the Village from the railroad overpass to the Town Line.
4. Section of Russell Road including Nautells, the Meadows Restaurant and Legault's.

Commercial zone is 800 feet deep from the center of the road.