ARTICLE 7

ADMINISTRATION AND ENFORCEMENT

Section 7.1 General Procedure

A. General Sequence of Steps

This Law shall be administered and enforced by the Town's Zoning Official. All persons desiring to undertake any new construction, structural alteration, or change in the use of a building or lot shall apply to the Zoning Official for a Zoning Permit by filing the appropriate application form and by submitting the required fee. The Town Board shall set the amounts of all fees from time to time by resolution. The Zoning Official shall then either issue, deny, or refer the application to the appropriate Board. Referrals shall be made to the Planning Board or Zoning Board depending on the circumstances of the referral.

In the event that the Zoning Official issues the Zoning Permit, the applicant may proceed to undertake the action permitted in the Zoning Permit and, upon completion of such action, shall apply to the Zoning Official for a Certificate of Zoning Compliance.

B. Zoning Permit Types.

Under the terms of this Code, the following classes of Zoning Permits may be issued:

1. *Permitted Use*. A Zoning Permit for a permitted use shall be issued by the Zoning Official on his/her own authority.
2. *Special Use*. A Zoning Permit for a Special Use shall be issued by the Zoning Official upon the issuance by the Planning Board of a Special Use Permit, pursuant to the regulations of Article 5 of this Code.
3. *Zoning Permit after an Appeal or a Request for a Variance*. A Zoning Permit shall be issued by the Zoning Official upon the issuance by the Zoning Board of Appeals of a use and/or area variance.
4. *Zoning Permit after Site Plan Review*. A Zoning Permit shall be issued by the Zoning Official upon approval of a Site Plan by the Planning Board pursuant to the regulations of Article 6 of this Code.

Section 7.2 Zoning Permits

A. General Requirements:

1. No building or structure may be erected, added to, or structurally altered until a permit therefore has been issued by the Zoning Official. Except upon written order of the Zoning Board of Appeals, no such Zoning Permit or Certificate of Zoning Compliance shall be issued for any building where said construction, addition, or alteration of use thereof would be in violation of any of the provisions of this Code.
2. For any project that requires a discretionary or non-discretionary permit from the Town of Caneadea, no physical alterations to the site, including grading and clearing, shall be commenced until the required permits have been obtained.

B. Application

Application for a zoning permit may be combined with the application for a building permit. All applications for a zoning permit shall contain the following information:

1. A minimum of two copies of a plot plan, drawn to scale, showing the lot dimensions and the location and size of all proposed structure(s), driveways, and other improvements on the lot. A certified survey prepared by a land surveyor licensed by the State of New York may be required on projects with structures on or near the lot lines or when the lot lines are difficult to determine from existing plots and monuments. Topographic data may be required when the site is sloping or when the building height cannot be readily determined from the elevations without topographic data.
2. The location and size of adjacent utility lines and a statement regarding the type of sewage disposal and water supply facilities to be provided.
3. The name, address, and telephone number of the owner or responsible agent. If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
4. Street address of the lot.
5. Tax map number of the lot.
6. Any other information required by the Zoning Official that is necessary to make a determination pursuant to this Law.
7. All required fees.

C. Review by Zoning Official

The Zoning Official shall review the application within thirty (30) days to determine if the proposal:

1. Is a permitted use or special permitted use within the zoning district in which the site is located,
2. Requires a building permit,
3. Complies with all the dimensional requirements of this Code, in terms of height, setbacks, yards, and lot coverage, etc.
4. Complies with all other requirements of this Code, and
5. Requires site plan review pursuant to this Code.
6. Requires a Use or Area Variance pursuant to this Code.

D. Zoning Official's Determination:

1. *Issuance of Permit*. If the Zoning Official determines that all requirements of this Law are satisfied, or upon order by the Planning Board or Zoning Board of Appeals, the Zoning Official shall issue a Zoning Permit, provided that all other reviews and actions, if any are called for in this Law, have been complied with and all necessary approvals have been obtained.
2. *Denial of Permit*. When the Zoning Official is not satisfied that the applicant's proposed development will meet the requirements of this Law, he/she shall deny the application for a Zoning Permit. The applicant may appeal to the Zoning Board of Appeals for a reversal of the Zoning Official's decision.
3. *Referral of Permit Application to the Appropriate Board*. If the Zoning Official determines that the proposed project requires a Special Use Permit and/or Site Plan

Review, he/she shall refer the application to the Planning Board and shall so notify the applicant. If the Zoning Official determines that the proposed project requires an Area or Use Variance, he/she shall refer the application to the Zoning Board of Appeals. In these instances, the Zoning Official shall take no action on the Zoning Permit application until the appropriate Board has made a determination and notified the Zoning Official of that determination. That notification shall include a copy of the Board's Notice of Decision, which shall contain all conditions of approval, if any. Applicable conditions of approval shall be satisfied prior to the issuance of the Zoning Permit.

E. Filing of Decisions

1. The Zoning Official shall return one copy of the plot plan to the applicant, along with either the Zoning Permit, or with a written denial of the zoning permit, which shall state the reasons for such denial.
2. If the proposal has received approval from either the Planning Board or Zoning Board of Appeals, the Notice of Decision containing all conditions of approval, if any issued by that Board, shall be substituted for the plot plan.
3. The Zoning Permit may be incorporated into other permits issued by the Town, such as a Building Permit.
4. The Zoning Official shall retain the second copy of the plot plan, along with the application and a copy of the determination, interpretation, order, and/or requirement that is made as a permanent record within five (5) business days from the day the decision is rendered.
5. Decisions made pursuant to this Town Zoning Law made by the Town Board, Town Planning Board or Town Zoning Board of Appeals must be filed with the Town Clerk within five (5) days of being rendered by such board.

F. Expiration of Zoning Permit

A Zoning Permit shall run concurrently with any building permit that is issued as part of the same application and shall expire when the building permit expires. If no building permit is issued, the Zoning Permit shall expire one (1) year from the date of issuance.

G. Revocation of Permits

If it shall appear, at any time, to the Zoning Official that the application is in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the application filed with him/her under existing laws or ordinances, he/she may forthwith revoke the Zoning Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to said Zoning Official.

When a Zoning Permit has been revoked, the Zoning Official shall re-issue the Zoning Permit in the event the applicant establishes that the work will comply with the Permit as originally issued. Before re-issuing the Zoning Permit, the Zoning Official shall notify the Town Board, which may require the applicant to file an indemnity bond in the favor of the Town with sufficient surety conditioned for compliance with this Law and all building laws and ordinances then in force, and in a sum sufficient to cover the cost of removing the building if it does not so comply.

H. Project Completion

It is expected that all projects will be completed pursuant to approvals in a timely manner. The Planning Board may require the applicant to post a performance bond or other security as recommended by Legal Counsel for the Town, which will allow the Town to complete landscaping and other project features.

For projects that are approved to be built in phases, if necessary, the Planning Board may approve temporary turnaround areas, which will be designed to accommodate emergency vehicles. Which temporary turnaround areas will be constructed for earlier phases of the project. As phases are built, temporary turnaround areas may be eliminated, according to the approved phasing plan.

If construction stops temporarily for more than sixty (60) days, the site must be stabilized. This will consist of grading and reseeding of the property. Undeveloped portions of the property shall be mowed a minimum of four (4) times per year. The applicant can request a waiver of this stabilization provision from the reviewing Board that granted the approval, or from the Code Enforcement Officer, if no discretionary approval was issued.

I. Certification of As-built Project

In order to ensure that all site features of a project are completed as shown on the plans approved by the Planning Board, or any other Board that may have approval authority, prior to the issuance of a Certificate of Zoning Compliance and a Certificate of Occupancy, the Zoning Official may require the project sponsor to provide a Letter of Certification from a licensed professional engineer, surveyor or architect, licensed in the State of New York. The Letter of Certification shall state that the project, as built, complies with the approved plans for the project. The certification shall be accompanied by As-built plans of the site. The certification shall include features such as landscaping, lighting, storm sewers and basins, sidewalks, parking lots, private roads, screening features, fencing, and any other site feature approved by the Board. Features of the site covered by the Building Code shall be exempt from this provision.

Following receipt of the Letter of Certification and the As-built plans, there will be a walk through inspection by the Code Enforcement Officer and Zoning Official along with the licensed professional providing the certification and the project contractor. The Town Board shall establish a fee for this post-construction inspection.

This provision shall apply to:

1. All Site Plan Review and Special Use Permits for commercial developments, except for Home Occupations, Home Retail and Service Establishments, Accessory Apartments, Manufactured homes on single family lots, Bed & Breakfast establishments, and any other use that is generally accessory to the principal use of a site as a single family home.
2. Agricultural uses shall be exempt from this provision.

This certification and walk through inspection shall be completed prior to the issuance of a Certificate of Zoning Compliance and a Certificate of Occupancy. However, the Planning Board may authorize the Code Enforcement Officer and Zoning Official to issue temporary

Certificates, if a performance bond has been posted in an amount sufficient to guarantee completion of the project as approved. The Planning Board shall establish a maximum period of time during which the temporary Certificates are valid. The issuance of temporary Certificates may be warranted, for example, in cases where the timing of the completion of construction does not allow adequate time to complete all required landscaping prior to the onset of winter weather. In such cases a performance bond is needed to ensure that the proposed development will be built in compliance with the approved site plan. The sufficiency of such performance bond shall be determined by the Town Board, after consultation with the Planning Board, Counsel to the Town, and/or other appropriate parties.

Section 7.3 Certificates of Zoning Compliance

A. Application for Certificate of Zoning Compliance shall be made within fifteen (15) days of completion of the structure, alteration, or other work.

B. No land shall be occupied or used and no structure hereafter erected, altered or extended, and no change in use shall occur until a Certificate of Zoning Compliance shall have been issued by the Zoning Official.

C. A Certificate of Zoning Compliance shall be issued by the Zoning Official within thirty (30) days after the application is received, if all work completed is in compliance with the provisions of this Law, including any conditions, variances or other permits that may have been issued.

D. A Denial for the Certificate of Zoning Compliance shall be issued by the Zoning Official within thirty (30) days after the application is received if, upon inspection by the Zoning Official, the project is found to be out of compliance with the provisions of this Law, including any conditions, variances or other permits that may have been issued.

E. The Zoning Official shall maintain a record of all Certificates of Zoning Compliance. Copies of said certificates shall be furnished upon request to any person having a proprietary or tenancy interest in the parcel or building affected.

Section 7.4 Violations and Penalties

A. Enforcement Official

The Zoning Official is hereby designated as the Town Official who is charged with the administration and enforcement of this Law. The Zoning Official is authorized to make inspections of property, to respond to complaints, to issue Notices of Violations and to issue Appearance Tickets where necessary, to enforce the provisions of this Law. The Town Board may designate other officials as deputy enforcement officials to help in the enforcement of the provisions of this Law. If the Zoning Official is in doubt as to the meaning or intent of any provision of this Law, or as to the location of any district boundary line on the zoning map, or as to the propriety of issuing a building permit, zoning permit, or Certificate of Zoning Compliance in any particular case, he/she shall submit the matter to the Zoning Board of Appeals for interpretation and/or decision.

B. Complaints of Violations

1. Any person may file a complaint with the Zoning Official that a violation of this Law may have taken place or is allegedly taking place. All complaints shall be in writing and shall specify the property on which the alleged violation has occurred.
2. The Zoning Official shall record and investigate all written complaints.
3. The Zoning Official shall also investigate any alleged violation that he/she has reason to believe has occurred or is occurring.

C. Inspection

1. The Zoning Official is hereby empowered to cause any building, structure or lot, or other tract of land to be inspected and examined for the purpose of determining whether it is in compliance with this Law and/or whether any violation of any provision of this Law has occurred or is occurring. Except in cases where the alleged violation is in plain view and/or where no entry is necessary, or except in cases where an imminent peril exists as determined by the NYS Uniform Fire and Building Code, the Zoning Official shall obtain permission from an owner, lessee, agent, tenant, or other person with authority to authorize an inspection of the property. However, if the property owner, lessee, agent, or tenant does not grant permission for such inspection, this refusal shall be an adequate basis for revoking the Zoning Permit or Certificate of Zoning Compliance.
2. Following the inspection of the property, the Zoning Official shall file a written report, which shall detail the findings of his/her inspection, with the Town Board. If an inspection was the result of a complaint, a copy of the report shall be sent to the person who filed the complaint.

D. Notice of Violation

1. If the Zoning Official finds that a violation of this Law exists on the property, he/she shall prepare a written Notice of Violation which shall contain the following information:
   a. The name of the person to whom the Notice is addressed;
   b. The location of the premises involved in the violation;
   c. A statement setting forth the specific violations of this Code with which the person is charged, including the section(s) alleged to have been violated, and the facts supporting such allegations;
   d. A demand that the violation be remedied to comply with this Law. The Notice shall set a reasonable time period for compliance. (For example, within fifteen (15) days of the date of the Notice of Violation.); and
   e. A statement that a failure to comply with the demand may result in prosecution.
2. The Notice of Violation shall be served by personal service or by certified mail, return receipt requested, addressed to the last known address of the property owner, occupant, or other person in possession or control thereof, or to the tax billing address on record with the Allegany County Office of Real Property Tax Services.
3. Extension. Upon application of the person served with a Notice of Violation showing reasonable cause, the Zoning Official may grant an extension of up to thirty (30) days for the owner or occupant to comply with the Notice of Violation.

E. Stop Work Order

Along with the Notice of Violation, the Zoning Official shall also revoke the Zoning Permit, issue a Stop Work Order and/or revoke the Building Permit for any construction that may be on-going.

F. Appearance Ticket

If, after the expiration of the time period specified in the Notice of Violation, or after the completion of any extension period, the owner or occupant shall fail to comply with the requirements of this Law, the Zoning Official or Town Board may institute enforcement procedures as follows:

1. The Zoning Official is hereby authorized, pursuant to Criminal Procedure Law Section 150.20 (3), to issue an Appearance Ticket to any person whom the enforcement Official has reason to believe has violated this Law, and shall cause such person to appear before a court having jurisdiction of the matter.
2. If the violation is not corrected or resolved following the issuance of the Appearance ticket, then the Zoning Official shall file an Information and Supporting Deposition with the local justice and shall take such other and further actions as may be necessary to bring the matter to conclusion.

G. Penalties

1. A violation of this Law is hereby declared to be a Class B Misdemeanor, punishable, for a conviction of a first offense, by a fine of not more than three hundred fifty dollars ($350.00) or by imprisonment for a period not to exceed six months or both; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars ($350.00) nor more than seven hundred dollars ($700.00) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars ($700.00) nor more than one thousand dollars ($1,000.00) or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers, violations of this Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.
2. Each week's continued violation shall constitute a separate additional violation.

H. Civil Penalty

In addition to those penalties provided for by Sub-Section A above, any person, firm, or corporation who violates any provision of this Zoning Local Law, or any rule or regulation enacted under this Local Law, or the terms or conditions of any permit issued by the Zoning Officer or any Board or agency of the Town of Caneadea, or any Order issued by any authorized Town Official, shall be liable for a civil penalty of not more than five hundred dollars ($500.00) for each day or part thereof during which such violation continues. The civil penalties provided for by this sub-section shall be recoverable in an action instituted in the name of the Town Board on its own initiative, or at the request of the Zoning Officer.

I. Other Remedies

1. In addition to the foregoing remedies, the Town Board may institute any appropriate action or proceeding to prevent, correct, or restrain any violation of this Law. This may include, without limitation, a punitive action or proceeding seeking an order authorizing the Town to correct the violation and collect the costs incurred by the Town in connection with the proceeding and necessary legal expenses incidental thereto. This may be executed by assessing same costs and legal expenses against the parcel of land on which the violation is occurring, levying and collecting such costs and expenses in the same manner as provided for the levy and collection of a special ad valorem levy.
2. The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Town Law of the State of New York or any other applicable law.