

TITLE OF ZONING LAW

This Zoning Law shall be known as the Town of Canaan Zoning Law and shall be a law regulating and restricting the location, construction, and use of land, buildings, and structures; establishing boundaries of districts for said purposes; establishing a Board of Appeals with power to determine and vary the application of regulations hereby established in harmony with their general purposes and intent; establishing a Planning Board; providing for the enforcement of provisions hereof; and for the purpose of promoting the health, safety, and general welfare of the inhabitants of the Town of Canaan, Columbia County, New York.

ENACTING CLAUSE

The Town Board of the Town of Canaan, Columbia County, New York, under authority of the Town Law of the State of New York, hereby ordains, enacts and amends its Zoning Code as set forth herein.

ARTICLE I - PURPOSES

The regulations and controls described in the text of this Zoning Law are adopted in accordance with a comprehensive plan. This Zoning Law, including the Appendices hereof, is designed to facilitate adequate planning for the following purposes:

1. to promote the health and the general welfare;
2. to prevent overcrowding of land;
3. to avoid undue concentration of population;
4. to lessen congestion;
5. to conserve the value of land and buildings;
6. to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
7. to encourage the most appropriate use of land throughout the town;
8. to encourage the development of educational, commercial, and light industrial facilities appropriate to the character of the community;
9. to encourage open space.

ARTICLE II - DEFINITIONS

Except where otherwise defined herein, all words in this Zoning Law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "person" may be construed to be singular or plural, and shall include any partnership, association, corporation, or other entity as well as an individual or individuals. The word "lot" includes the word "plot" or "parcel". The word "shall" is mandatory. The word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged or designed to be used or occupied".

ALTERATION: Any addition to or deletion of a Building or a change in its structural parts, or any change in its use classification as specified under Use Applications Article IV.

AREA, LOT: The net land area of a lot exclusive of Roads, Ways and other public open space. The area of any Road or Way shall not be included.

AREA, RECREATION: A defined area reserved for and specifically designed to accommodate sports and communal activities such as, but not limited to, tennis, swimming, baseball and clubhouse activities.

AUTOMOTIVE FILLING STATION: Any area of land, including the Structures thereon, that is used for the sale of automotive fuels. Motor oil, automotive fluids, lubricants, and customarily accessories may be sold at a filling station.

AUTOMOTIVE SALES AREA: Any area of land, including a showroom within a Building, used for the display or sale of new or used automobiles or trucks.

AUTOMOTIVE SERVICE STATION: Any area of land, including the Structures thereon, that is used for the repair and/or maintenance of privately owned motor vehicles. Service may include lubrication and/or non-mechanical washing.

AUTOMOTIVE WASHING FACILITY: A Structure or Building designed for the washing, waxing, or similar treatment of motor vehicles as its principal function.

AUTOMOTIVE WRECKING: The dismantling, wrecking, or burning of used motor vehicles.

BED AND BREAKFAST: An owner-occupied Single-Family Dwelling used for providing overnight accommodations and a morning meal to not more than 10 (ten) transient lodgers, containing not more than five bedrooms for such lodgers.

BUILDING: Any Structure having a roof supported by columns or walls and a permanent foundation, and intended for use as a shelter, housing, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING, ACCESSORY: A Building or structure other than an Accessory Dwelling including but not limited to a garage, barn, Storage Building or shed, which is of a kind and size commonly, but not necessarily, associated with the type of principal Building to which it is incidental and which is located on the same lot as such principal Building.

BUILDING AREA: The total of areas taken on a horizontal plane at the main grade level of the principal Building and all Accessory Buildings exclusive of uncovered porches, terraces and outdoor steps. All dimensions shall be measured between the exterior faces of walls and/or columns.

BUILDING HEIGHT: The vertical distance measured from the top of the foundation to the elevation of the upper most ridge of the Building.

BUILDING LINE, FRONT: The line running parallel to the centerline of the Road or Way that determines minimum front yard setback.

BUILDING, PRINCIPAL: A Building constituting the principal use of the Lot on which it is situated.

BUILDING, STORAGE: An enclosed Building used for the principal purpose of warehousing, storage, or safe keeping of goods.

BURN FACILITY: Any Structure, Building, and/or facility used to burn refuse or fuels for the purpose of material disposal or generation of power. This definition applies regardless of whether the facility is a principal or Accessory Use.

CEMETERY: Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbariums, mausoleums and mortuaries when operated within the boundary of such lands and in accordance with the requirements of this chapter.

CENTER LINE OF ROAD OR WAY: A line parallel to and halfway between the two edges of the existing right of way of a Road or Way.

CHILD DAY CARE: shall mean care for a child on a regular basis provided away from the child's residence for less than twenty-four (24) hours per day by

someone other than the parent, step-parent, guardian, or relative within the third degree of consanguinity of the parents or step-parents of such child.

CHILD DAY CARE PROVIDER: shall mean any individual, association, corporation, partnership, institution, or agency whose activities include providing Child Day Care or operating a home or facility where Child Day Care is provided.

CHILD DAY CARE CENTER: shall mean any program or facility caring for children for more than three (3) hours per day per child in which Child Day Care is provided by a Child Day Care Provider except those programs operating as a Group Family Day Care Home, a Family Day Care Home, and a school age child care program as defined in NY Social Services Law Section 390.

CHURCH/HOUSES OF WORSHIP: Any building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and/or related educational, social, cultural and fund-raising activities, and which building is maintained and controlled by a recognized religious body organized to sustain public worship.

CONSERVATION EASEMENT: An easement, covenant, restriction or other interest in real property under the provisions of §247 of the General Municipal Law and/or the provisions of the Environmental Conservation Law of the State of New York, which limits or restricts the development, management or use of such real property for the purpose of preserving, managing or maintaining the scenic, open, historic, archeological, architectural or natural condition, character, significance or amenities of the real property.

DAM: A barrier constructed to restrict the flow of water and raise the existing water level above its natural level. A dam may require engineering certification and/or approval from the New York State Department of Environmental Conservation and the U.S. Department of Agriculture depending on gallon and size.

DISTRIBUTION FACILITY: A Structure used for receiving, storing and/or distributing materials, goods, freight, packages or items of production.

DRIVEWAY: Land situated within a Lot used or intended to be used to provide access to the Lot by vehicular traffic. Driveway grade shall not exceed 10% within 100 feet of the Road or Way it joins or 15% in any area of the Driveway. Driveways are exempt from set back requirements.

DUMP: Land used for the disposal by abandonment, dumping, burning, or any other means, of garbage, sewage, trash, refuse, junk, machinery, or waste material of any kind, or for Automotive Wrecking

DWELLING: A Building (other than a Mobile Home) arranged, intended or designed to be occupied by one (1) or more families living independently of each other.

DWELLING, ACCESSORY: One (1) additional, separate, Single Family, Dwelling Unit per Single-Family Dwelling. The additional unit may be within the Single Family Dwelling, or an Accessory Building or part thereof. The Building Area of an Accessory Dwelling must not be less than three hundred (300) square feet, nor more than fifteen hundred (1500) square feet and it must have a separate entrance. Adequate septic, water, and utilities shall be provided and setback requirements as defined in this law shall be met. A lot containing an Accessory Dwelling cannot be subdivided so as to separate the Accessory Dwelling from the primary Dwelling. New construction for an unattached Accessory Dwelling requires a minimum five (5) acre lot.

DWELLING, MULTI-FAMILY: A Dwelling containing three (3) or more Dwelling Units and occupied or designed for occupancy by three (3) or more families living independently of each other.

DWELLING, SINGLE-FAMILY: A Building containing one (1) Dwelling Unit only.

DWELLING UNIT: One (1) or more rooms constituting a separate, independent housekeeping unit with provisions for cooking, living, sanitary and sleeping facilities arranged for the use of one (1) family.

FAMILY DAY CARE HOME: For purposes of this Zoning Law, a Family Day Care Home shall be as defined in NY Social Services Law Section 390.

FARM: The land, buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products as defined in the NY State Agriculture and Markets Law. A Farm of fifty (50) contiguous acres or more may include one (1) Mobile Home for the housing of a farm employee only (including his immediate family). Such Mobile Home shall be screened or buffered from any abutting property and the public view. If abandoned, a Mobile Home must be removed within one (1) year.

FENCE: A barrier or enclosure used to delineate an area or boundary, for screening or for purposes of privacy or protection. Fences over six (6) feet high and also swimming pool enclosures shall require a building permit.

FRONTAGE: The linear measurement in feet of a lot measured on the property line of the right-of-way of a Road or Way.

GRAVEL BANK, QUARRY, MINE: The use of land for excavation, quarrying, or mining of any type of earth material, topsoil, gravel, rock, ore, or mineral which is removed from the Lot from which it is taken. No Special Permit is required if the activity is conducted totally on the same Lot without the removal of gravel or other earth materials from that Lot.

GROUP FAMILY DAY CARE HOME: For purposes of this Zoning Law, a Group Family Day Care Home shall be as defined in NY Social Services Law Section 390.

HAZARDOUS SUBSTANCE: Any material or substance defined as “hazardous” in Federal, State or Local laws or regulations. The term, "Hazardous Substance", does not include consumer products that are packaged for, stored, and used by a consumer with reasonable care and for their intended use, nor fertilizers and/or agricultural chemicals when legally used in connection with a farming operation.

HOME OCCUPATION: An occupation or profession which:

- a) is carried on within a Single-Family Dwelling or an Accessory Building,
- b) is carried on by a member of the household residing in the Single-Family Dwelling, and
- c) is clearly incidental and secondary to the use of the Single-Family Dwelling for residential purposes, and
- d) which conforms to the following additional conditions:
 1. The occupation or profession shall be carried on wholly within the Single-Family Dwelling or an Accessory Building.
 2. Not more than two persons at one time outside of the household shall be employed in the home occupation.
 3. There shall be no exterior display, or exterior sign (except as permitted under Article IV, Section G); there shall be no exterior storage of materials and no other visible indication of the Home Occupation or other variation from the residential character of the Single-Family Dwelling.
 4. More than one Home Occupation may be conducted within a Single-Family Dwelling and/or an Accessory Building with Site Plan approval.

5. The area utilized by each such Home Occupation shall not exceed 1,000 square feet.

HOTEL: A Building (other than a Bed and Breakfast or Motel) used primarily for the purpose of furnishing lodging, with or without meals, to transient guests for compensation.

JUNKYARD: Any Lot used for the collection, storage and/or sale of wastepaper, rags, copper, brass, plastic, rope, batteries, tires, trash, rubber debris, waste, or discarded material; or scrapped, ruined, dismantled, and/or salvaged machinery, appliances, equipment or vehicles, or parts thereof, as well as iron, steel and any other old or scrap ferrous or nonferrous material. A Transfer Station as defined herein shall not be considered to be a Junkyard.

LAND, CONSERVATION: Land that is set-aside for public or private agricultural, recreational and/or other land conservation use that is left undeveloped and essentially unaltered in its natural state. Examples of Conservation Land are wetlands, parks, classified streams and conservation easements.

LIGHT MANUFACTURING: A use involving the manufacture of a product, but not requiring heavy or noisy machinery or transporting equipment. Light manufacturing uses shall be construed to include the following categories: food and beverage production; apparel and other textile products; furniture and fixtures; printing and publishing; electrical and electronic machinery and equipment.

LOT: A measured parcel of land, developed or undeveloped, having fixed boundaries and designated on a deed, plot plan or survey.

LOT LINE: Any boundary of a Lot that separates it from adjoining land.

LOT DEPTH: The horizontal distance of a Lot from the Road or Way on which it fronts to its opposite rear line of such lot, measured along the median between the two (2) side lot lines.

LOT, UNIMPROVED: A parcel of land on which there is no physical evidence of development.

LOT WIDTH: The distance between side lot lines of a Lot at the required minimum front yard depth measured from side lot line to side lot line along a line parallel to the Road or Way.

MINE: See Gravel Bank, Quarry, Mine.

MOBILE HOME: A structure, transportable in one or more sections, which in traveling mode is eight (8) feet or more in width or forty (40) feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a permanent, Single-Family Dwelling with or without a permanent foundation when connected to the required utilities.

MOBILE HOME PARK: A tract of land whereon two (2) or more Mobile Homes are located or parked, or which is used or held out for the purpose of supplying to the public a parking or other space for two (2) or more Mobile Homes for use for permanent living purposes or for transient occupancy. No Mobile Home Park shall be located in the Town of Canaan unless it complies with all other laws and ordinances of the Town of Canaan and all necessary permits have been obtained.

MODULAR HOME: A single family residence that is prefabricated in sections, transported to a building site, then fastened together and placed on a permanent and totally enclosed masonry foundation. A "double-wide" or other Mobile Home shall not be considered to be a Modular Home.

MOTEL: A Building (other than a Bed and Breakfast) furnishing lodging, with or without meals, to guests for compensation, in which the exit from each Dwelling Unit or sleeping room is directly to the exterior.

NUISANCE: Any use referred to in Section 3, Article 5 of this Zoning Law or which violates any standard with respect to smoke, noise, odor, dust, vibrations, heat or glare or air ground, or water pollution set forth in any Federal or New York State or local law, rule or regulation.

OPEN SPACE: Space, natural (of nature) in character, without any improvements thereon, that provides conservation, environmental protection, natural, historic and/or cultural resources and/or recreational opportunities.

PARK/PLAYGROUND: Any land or associated structures created and maintained by a municipality for the express use and enjoyment by the general public for recreational purposes.

PARKING LOT, COMMERCIAL: Any Lot or portion thereof designed or used solely for the purpose of day to day parking of vehicles for which a fee is charged.

PARKING SPACE, AUTOMOBILE: An enclosed or open space for the parking of an automobile shall be not less than 10 feet by 20 feet.

POND, FLATLAND: A body of water, not more than three-quarter (3/4) acre in surface area, formed only by an excavation (if it does not require the construction of a dam) and does not raise the pre-existing water level. Except for the outlet, the surrounding land shall remain not less than one (1) foot above the maximum water level for the minimum distance of 20 feet or five (5) times the maximum depth of the pond, whichever is less. The distance is to be measured from the water's edge outward on the pond's perimeter.

PRIVATE SCHOOL: shall mean any entity, whether or not operated for profit, offering to instruct or teach any subject by any plan or method including written, visual or audio-visual methods, other than schools operated by government agencies or authorities.

RANCH, FUR BEARING: The raising of fur bearing animals for the harvesting of pelts to be sold commercially. The harvesting and processing of the pelts shall be done within an enclosed Building and shall be screened from view of the abutting property owners and the public.

RECREATION VEHICLE: Any vehicle, including popup, tow behind, self-propelled or fifth wheel trailer, used primarily for travel or temporary residential purposes. Parking location of a recreational vehicle, other than one being used for temporary residential purposes, is not subject to setback requirements. Only one Recreation Vehicle on the lot, other than a Recreation Vehicle Sales Area or Service Area, shall be visible from a neighboring residence, Road or Way. A Recreation vehicle may be used for temporary residential purposes and for not more than one hundred twenty (120) days in any calendar year.

RECREATION VEHICLE SALES AREA: Any area of land, including a showroom enclosed within a Building, used for the display or sale of new or used Recreation Vehicles.

RECREATION VEHICLE SERVICE AREA: Any area of land, including the Structures thereon, used for the repair and/or maintenance of Recreation Vehicles. Service may include lubrication and/or non-mechanical washing.

RESTAURANT: A public eating place, the principal activity of which shall be the service of food to the public and a secondary activity may be alcoholic beverage sales to supplement the service of food. A Restaurant may provide music for and permit dancing by patrons only (but no other live entertainment). A patron is someone who comes to such establishment for his/her personal use and enjoyment only and does not receive any form of remuneration or payment for being there.

RIGHT OF WAY: See definition for "Way".

ROAD: A state, county, or town public thoroughfare.

ROADSIDE STAND, PERMANENT: A fixed Building or Structure intended or used incidentally to the sale of goods or produce made or grown on the premises.

ROADSIDE STAND, TEMPORARY: A removable, temporary stand not fixed to the ground. The temporary stand may only remain in place and be open for a period not to exceed one hundred fifty (150) days in any calendar year.

SETBACK: The distance in feet from a given point or line of reference to the nearest element of a Building, Structure or Use. Front yard setbacks are from the centerline of the traveled, paved section of the Way or Road. Side or rear yard setbacks are from the side or rear lot line. In the case of a lot with frontage on two or more Roads or Ways, the Front Yard Setback requirement applies to all parts of the lot fronting on a Road or Way.

SIGN: Any visual device, or any device attached to a Structure or painted or represented on a Structure, which displays or includes any letter, word, model or device which represents or is in the nature of an announcement, direction or advertisement.

SLAUGHTER FACILITY: A Building, Structure or land used for the commercial butchering or rendering or parts thereof any animals and/or livestock.

STABLE: Commercial Premises maintained and operated for the riding, boarding, buying, selling, renting, training or showing of horses. Such Use shall not be permitted on any Lot less than five (5) acres.

STORAGE CONTAINER: An enclosed container used for storage of goods, including but not limited to shipping containers, truck bodies, trailers and obsolete school buses. The location must meet setback requirements and be totally screened from the public, and be located on a Lot of five (5) acres or more.

STORAGE CONTAINER, REFUSE COLLECTION: Standard garbage containers such as covered dumpsters used for scheduled refuse collection. Refuse Collection Storage Containers for temporary use during a period of not more than ninety (90) days and household garbage cans are exempt Uses.

STORAGE CONTAINER TEMPORARY: Enclosed container used for the storage of goods, residential belongings or building materials during construction or renovations. Refer to Article IX, Section B, Subsection C of the Zoning Law. The container must be located in the rear yard and meet setback requirements unless topography or construction constraints do not allow.* added

STORY: That part of a Building included between any floor other than a cellar floor, and the floor or roof next above.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on or in the ground or water. Structures include dams, tennis courts, earthen ramps, ponds, excavations, fences over six (6) feet in height, barriers, bridges, large culverts of three [3] feet or more in diameter, Roads, Ways, Driveways and decks, but not including logging roads, drainage excavation and landscaping.

STRUCTURE, MINOR: Any Building less than two hundred (200) square feet and also less than twelve (12) feet in height which otherwise qualifies as a Permitted Use as of right under the provisions of this law, does not require a Building Permit or a Certificate of Occupancy. A Minor Structure is still subject to the setback requirements of this Zoning Law.

SWIMMING POOL: Any outdoor pool, tank, depression or excavation created for the specific purpose of swimming that causes the retaining of water to a depth greater than 18 inches and having a water surface area in excess of 100 square feet.

TELECOMMUNICATION FACILITY: See Article VIII; subsection D of this Zoning Law.

THEATER: A Building or Structure or part of a Building or Structure primarily devoted to showing motion pictures or for dramatic, dance, musical, or other live performances. The sale or distribution of alcoholic beverages is not permitted in a Theater.

TRANSFER STATION: A Building, Structure or land where solid waste is taken from collection vehicles and placed in other covered transportation units for movement to another solid waste management facility, or where recyclables are collected, processed and then placed in transportation units for movement to another facility.

USE: The specific purpose for which a Building, Structure or land is designed, arranged or intended or for which it is or may be occupied or maintained.

USE, ACCESSORY: A Use that is customarily incidental to and subordinate to the principal Use of a Building, Structure or lot and located on the same land as the principal Use, Building or Structure.

USE, NONCONFORMING: A Building or Structure, or a Use of a Building, Structure or land, which was constructed or established prior to the original enactment of a zoning law in the Town of Canaan and which was lawful under all other local laws of Canaan then in effect, or which was permitted by the Town of Canaan Zoning Law as in effect at the time of such construction or establishment, but which in either case does not conform to the provisions of the Zoning Law as in effect at the time conformity is being determined.

USE, PERMITTED: A specific Use of a Building, Structure, Lot or land or part thereof which Article IV, Section B of this Zoning Law provides for in a particular district as a matter of right.

USE, PROHIBITED: Any Use that is not listed as a Permitted, Special Permit, or Accessory Use, in a particular zoning district as provided in Article IV, Section B of this Zoning Law.

USE, SPECIAL PERMITTED: A Use requiring a special permit from the ZBA, as provided in Article IV, Section B of this Zoning Law.

VARIANCE, AREA: The authorization by the ZBA for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE: The authorization by the ZBA for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations. An increase in density or intensity of Use shall be deemed to require a "Use Variance" if such increase is not allowed by right or by Special Permit.

VETERINARIAN SERVICES: The care and treatment of animals by individuals licensed to provide such services by the NYS Department of Education.

WAY: A private Road, which affords a means of access to a Lot or Lots not situated on an existing Road or Way. A Way must be at least sixty (60) feet in width and must be maintained by the owners. A Way shall be designated and dedicated as a sixty (60) foot wide right-of-way in plan, and shall be certified by a New York State licensed surveyor. Any cul-de-sac within the Way must have a minimum diameter of one hundred ten (110) feet. A Way providing access to a Lot must be improved before development of said Lot in accordance with the standards required for a Subdivision Road or Way, provided in Appendix III B hereto. An application to convert a Way into a town Road must demonstrate that the Way complies with the Town of Canaan Highway specifications for Town Roads and has been granted Site Plan approval by the Town Planning Board.

YARD, FRONT: The open space extending across the entire width of the Lot between the front element of a Building or Structure closest to the centerline of a Road or Way.

YARD, REAR: The open space extending across the entire width of a Lot between the rear line of the Lot and the closest rear element of a Building or Structure.

YARD, SIDE: The open space on a Lot with a Building, between the building element and a side lot line, extending through from the Front Yard to the Rear Yard.

ZBA: The Zoning Board of Appeals of the Town of Canaan.

ZEO: The Zoning Enforcement Officer of the Town of Canaan.

ARTICLE III - ESTABLISHMENT OF DISTRICTS

A. The Town of Canaan, New York is hereby divided into the following districts:

Residential-Agricultural

- RA-1 Medium Density (2 and 5 acre zones)
- RA-2 Rural Density (2 and 5 acre zones)
- RA-3 Mobile Homes (2 and 5 acre zones)
- RA-4 Agricultural Density (10 acre zone)

Commercial and Industrial

- C-1 General Business
- C-2 General Commercial
- C-3 Light Industrial

B. **ZONING MAP:** The foregoing districts are bounded as shown on a map entitled "Zoning Map, Town of Canaan, New York", which map and the description of boundaries with the explanatory matters thereon, are attached to APPENDIX, Parts A, B and C hereto.

C. **INTERPRETATION OF LOCATION OF DISTRICT BOUNDARIES:** Where uncertainty exists with respect to the boundaries of any of the districts as shown on the Zoning Map, the following rules shall apply:

1. The district boundary lines are intended to follow Road lines, the Boston and Albany Railroad (or its successors) property lines, and natural lines such as streams wherever possible.

2. Where district boundaries are indicated as approximately parallel to the centerline of Roads, boundaries shall be considered as being parallel thereto and at such distance as indicated on the map.

3. Where a district boundary line divides a parcel in single or joint ownership of record at the time such boundary line is established, each portion of said parcel shall be governed by the zoning regulations within which it is located.

4. If there is ambiguity in determining the precise location of any District Boundary Lines, the ZBA shall, upon application, determine the location.

ARTICLE IV - REGULATIONS

A. Nonconforming Structures, Mobile Homes, Lots and Uses:

1. (a) Any Nonconforming Use may be continued. Any Nonconforming Use of a Building, Structure, or land existing at the time this Zoning Law is adopted, may be continued. A Nonconforming Use may not be enlarged or expanded; a Nonconforming Use may not be changed except to a conforming Use. Any Nonconforming Use that is discontinued or abandoned for more than two (2) years shall not thereafter be re-established.

(b) Any nonconforming Structure may be rebuilt to its existing size or shape if damaged or destroyed. Nothing shall prevent repairs or alterations to a nonconforming Structure when declared unsafe by a proper authority. A nonconforming Structure may not be enlarged.

(c) A nonconforming Front Yard Setback does not restrict additions to a structure that is a conforming Use as long as the location of the front of the addition equals or exceeds the existing Front Yard Setback.

2. Notwithstanding any provision of this Zoning Law, owners and lessees of property within the Town of Canaan upon which Mobile Homes have been situated and established prior to date of enactment of the first Canaan Zoning Law, shall have the same rights and retain such previous rights and prerequisites as any other Dwelling, including the right to substitute another Mobile Home in place of the one presently situated and established on said property, provided the new Mobile Home is not larger than the original in total square footage. When determining the square footage, added Structures or extensions shall not be considered in determining the square footage of the original. A mobile home shall be removed from its Lot if such use of such Mobile Home has been discontinued for one (1) year or more in any zoning district other than RA 3.

3. In any zoning district, notwithstanding limitations imposed by other provisions of this Zoning Law, a single unimproved Lot that is a Nonconforming Use due to size may be built upon subject to the following conditions:

a) Such a Lot must be in separate ownership and not contiguous with any other Lot in the same ownership. This provision allowing building on a nonconforming lot shall apply even though such Lot fails to meet the requirements for area or width, or both, which are applicable in the zoning district; provided, however, that the Setback and other requirements not involving area or width, shall conform to the regulations for the zoning district in which the Lot is located.

b) If two or more unimproved Lots or combinations of Lots or portions of Lots which are contiguous were in single ownership on the effective date of enactment of this Zoning Law, and if the individual Lots do not meet the requirement for a Lot Width and area as established by this Zoning Law, the Lots involved shall be considered to be combined as an individual parcel for the purpose of this Zoning Law.

c) No portion of any Lot shall be divided or sold if such division leaves remaining any Lot Width or area below the requirements stated in this Zoning Law, or results in the creation of any Lot not conforming to any requirements of this Zoning Law, unless each nonconforming subdivided Lot is purchased by the owners of adjoining properties to increase the size of said owners' properties.

4. Where two zoning districts meet, a conforming Use in one district may not be accessed through another district where that Use is nonconforming unless said access is by public Roads.

B. Use Regulations:

Any Use not listed in this Section B, as a Permitted or Special Permitted Use shall be considered a Prohibited Use.

No Structure shall be erected, enlarged, altered, or moved, and no Use shall be established or changed in the Town of Canaan unless a permit for such activity has been issued by the ZEO pursuant to the provisions set forth herein. The ZEO may require such information as, in his sole discretion, may be necessary to determine if the proposed Structure or Use is in accordance with the provisions of this Zoning Law.

P Permitted Use
 SP Special Permitted Use
 X Prohibited Use

RESIDENTIAL USES

	RA-I	RA-2	RA-3	RA-4	C-1	C-2	C-3
Dwelling, Accessory	P	P	P	P	SP	SP	SP
Dwelling, Multi-Family	X	X	X	X	X	SP	SP
Dwelling, Single Family	P	P	P	P	SP	SP	SP
Home Occupation in Accessory Building	SP	SP	SP	SP	SP	SP	SP
Home Occupation within Dwelling	P	P	P	P	P	P	P
Mobile Home*	X	X	P	X	X	X	X
Mobile Home Park	X	X	SP	X	X	X	X
*see definition of Farm							

GENERAL USES

	RA-I	RA-2	RA-3	RA-4	C-1	C-2	C-3
Burn Facility	X	X	X	X	X	X	X
Cemetery	SP	SP	SP	SP	X	X	X
Churches / Houses of Worship	SP	SP	SP	SP	SP	SP	SP
Dams	SP	SP	SP	SP	SP	SP	SP
Dumps	X	X	X	X	X	X	X
Junkyard	X	X	X	X	X	X	X
Parks and Playgrounds	SP	SP	SP	SP	SP	SP	X
Ponds, Flatland	P	P	P	P	P	P	P
Ponds, Other than Flatland	SP	SP	SP	SP	SP	SP	SP

Private Schools	SP						
Public utility poles and lines to service users	P P						

ACCESSORY USES

	RA-I	RA-2	RA-3	RA-4	C-1	C-2	C-3
Building, Accessory	P	P	P	P	P	P	P
Driveway	P	P	P	P	P	P	P
Fences, subject to the Limitations set forth herein	P	P	P	P	P	P	P
Garages, Residential	P	P	P	P	P	P	P
Recreation Vehicle	P	P	P	P	P	P	P
Signs, subject to the limitations set forth herein	P	P	P	P	P	P	P
Storage Building, Commercial	SP	SP	SP	SP	P	P	P
Storage Building, Residential	P	P	P	P	P	P	P
Storage Container	SP	SP	SP	SP	SP	SP	SP
<u>Storage Container, Refuse</u> Storage Container, Temporary	SP SP	SP SP	SP SP	SP SP	SP SP	SP SP	SP SP
Swimming Pool, Residential	P	P	P	P	P	P	P
Way	SP	SP	SP	SP	SP	SP	SP

COMMERCIAL USES

	RA-1	RA-2	RA-3	RA-4	C-1	C-2	C-3
Automotive Filling Station	X	X	X	X	X	SP	SP
Automotive Service Area	X	X	X	X	X	SP	SP
Automotive Sales Area	X	X	X	X	X	SP	SP
Automobile Wrecking	X	X	X	X	X	X	X
Bank	X	X	X	X	SP	SP	SP
Bed & Breakfast, less than three rooms	P	P	P	P	P	P	P
Bed and Breakfast, three or more rooms	SP	SP	SP	SP	SP	SP	SP
Boat, Farm, and Garden Machinery Sales and Service Establishments (subject to the limitations set forth herein)	X	X	X	X	X	SP	SP
Child Day Care Center	SP	SP	SP	SP	SP	SP	SP
Group Family Day Care Home	P	P	P	P	P	P	P
Family Day Care Home	P	P	P	P	P	P	P
Crematorium	X	X	X	X	X	X	X
Farm	P	P	P	P	P	P	P
Golf Course	X	SP	SP	SP	SP	X	X
Gravel Bank, Quarry, and Mine	X	SP	SP	SP	SP	SP	SP
Hotel, Small, less than 16 Bedrooms	X	X	X	X	SP	SP	SP
Hotel, Large, 16 bedrooms or more	X	X	X	X	X	SP	SP
Insurance Office	X	X	X	X	SP	SP	SP

Job Printing	X	X	X	X	SP	SP	SP
Library, Museum and Art Gallery	SP						
Light Manufacturing or other Light Industry utilizing adjacent rail facility	X	X	X	X	X	X	SP
Motel	X	X	X	X	X	SP	SP
Newspaper Printing	X	X	X	X	X	SP	SP
Parking Lot, Commercial	X	X	X	X	X	SP	SP
Personal Service Establishments such as, but not limited to Barbershops, Hairdressers, and Tailors	X	X	X	X	SP	SP	SP
Professional, Business and Service Offices not otherwise Specified	X	X	X	X	SP	SP	SP
Ranch, Fur Bearing	X	SP	SP	SP	X	SP	X
Real Estate Office	X	X	X	X	SP	SP	SP
Recreation Vehicle, Sale and Service	X	X	X	X	X	SP	SP
Retail Store	X	X	X	X	SP	SP	SP
Restaurant	X	X	X	X	SP	SP	SP
Roadside Stand, Permanent	SP						
Roadside Stand, Temporary Roadside Stand	SP						
Slaughter Facility	X	X	X	X	X	X	SP
Swimming Pool, Non-Residential	SP						
Telecommunication Facility	SP						
Theater or Assembly Hall	X	X	X	X	X	SP	SP
Transfer Station	X	X	X	X	X	X	SP

Trucking, Materials Transfer, Truck or eavy Equipment Maintenance or Sales or Fabrication, including Fuel Depot and Services supporting Thruway activities	X	X	X	X	X	X	SP
Veterinarian Services	X	SP	SP	SP	SP	SP	SP
Commercial Storage or Warehousing, excluding Secondhand Lumber/ Material Yard	X	X	X	X	X	SP	SP

C. Additional requirements and information regarding Uses

1. Any Building or Structure hereafter erected, altered, or used for Single Family Dwelling purpose in any zoning district shall provide not less than 600 square feet of first floor finished living area for a one-story Dwelling and not less than 1,000 square feet for both floors of a two-story Dwelling (above the basement).
2. No Lot may contain more than one (1) Single-Family Dwelling nor more than one (1) Accessory Dwelling.
3. No Building Height shall exceed 35 feet.
4. In the General Business district (C-1), the Uses allowed in or on a Lot in such district may include Buildings and Structures of a total of not more than 4,000 square feet of enclosed building Area but all Uses may not exceed 20% of the Lot Area.
5. In the General Commercial district (C-2), the following regulations and restrictions are applicable:
 - a) The Uses allowed in or on a Lot in such district may include Buildings and Structures of a total of not more than 30,000 square feet of enclosed building Area but all Uses may not exceed 20% of the Lot Area. Boats, autos, new machinery, manufactured products and building materials may be stored and displayed within secured, landscaped, and buffered areas or open sheds which shall be part of the enclosed building Area.

b) Automotive Service Stations may have a maximum of four (4) operational used cars for sale. Junk cars (non-repairable) may not be stored and must be removed within thirty (30) days after arrival.

6. In the Light Industrial district (C-3), there are no limits to enclosed building Area or Lot Area. However, each Use is subject to Site Plan approval and the issuance of a Special Permit.

D. Density Requirements

The density requirements set forth herein do not apply to a Telecommunication Facility. The density requirements for a Telecommunication Facility are set forth in Article VIII, subsection D.

	Minimum acreage per Use	Minimum Lot Width	Minimum Front Yd Setback	Minimum Side Yd Setback	Minimum Rear Yd Setback
RA-1 Medium Density	2** 5	200' 350'	75' 75'	25' 50'	25' 50'
RA-2 Rural Density	2** 5	200' 350'	75' 75'	25' 50'	25' 50'
RA-3 Mobile Homes	2** 5	200' 350'	75' 75'	25' 50'	25' 50'
RA-4 Agricultural Density	10	350'	75'	50'	50'
C-1 General Business	½ acre	200'	100*	25*	25*
C-2 General Commercial	2	200'	100*	25*	25*
C-3 Light Industrial	2	200'	100*	25*	25*

Notes:

- * If Site Plan approval is required, the minimum Setbacks shall be determined by the Planning Board as part of the Site Plan approval process.
- ** Two (2) acre zones shall extend to a depth of 450' from the centerline of a Road or Way. No building site outside of the 450' depth shall be considered to be within a two (2) acre district, but will instead be within a five (5) acre district. All Setbacks are measured from the centerline of the traveled/paved section of Road or Way.

EXEMPT SETBACK CONDITIONS

1. Fences: No Setback is required, however no fence may encroach on any adjacent Lot. Any fence must be located outside the right of way area of any Road or Way and not closer than twenty-five (25) feet from the centerline of any Town or County right-of-way, street, or private way, or within 33 1/3 feet from the centerline of any State right-of-way or State Highway.
2. Temporary or Permanent Roadside Stands: Front Yard Setback requirements shall be determined by the Planning Board as part of the Site Plan approval process. All other Setback requirements must be met.
3. Wells and Septic Systems: No Setback is required, subject to provisions of Article IV, subsection H.
4. Docks: No Setback is required but location and Structure are subject to any review and/or approval required by the New York State Department of Environmental Conservation.
5. Driveways: No Setback is required.
6. Roads and Ways: No Setback is required, but new Roads and Ways must be located so that there are no violations of setback requirements with respect to existing Structures and facilities.

E. Off-Street Parking

1. Adequate off-street automobile parking or waiting/standing space shall be provided at the time of the erection of any Building or Structure, at the time any Building or Structure is enlarged or increased in capacity by adding Dwelling Units, guest rooms, seats or floor area or before conversion from one Use or occupancy to another where such space is required. Such spaces required shall not thereafter be reduced or encroached upon.

2. Off street parking for any commercial Use allowed in a residential district shall not exceed the immediate requirements of such Use.
3. No off-street parking shall be used or designed in a manner that will obstruct or interfere with the free use of any Road, Way or adjoining property.
4. A minimum number of off-street Automobile Parking Spaces shall be provided as listed below.

Bed & Breakfast,	1 for each sleeping room 1 for every two employees
Dwelling, Single Family	2 for each Dwelling Unit
Home Occupation within Dwelling	1 per 200 square feet of customer or office floor area; 1 for each employee outside the household; 2 per dwelling unit

5. Except as provided in paragraph 4 above, the number of Automobile Parking Spaces or other waiting/standing or other vehicle parking spaces required for any Use shall be determined by the Planning Board as part of the Site Plan approval process.

F. Off-Street Loading

Off-street loading which is spaced logically shall be required for all commercial and industrial Uses and shall be conveniently located for bulk pickups and deliveries, shall be scaled to delivery vehicles expected to be used, and shall be accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not included as off-street parking space.

G. Sign and Poster Control:

1. Permits

Unless otherwise specified herein, all signs permitted herein shall require a permit issued by the ZEO.

2. Rules for Measuring Signs

a) Back-to-back signs, identical signs arranged back- to-back or diverging by less than thirty (30) degrees from a common line or point may be counted as one (1) sign.

b) The area of a sign consisting of an insignia or other device, but without background, shall be calculated as the smallest polygon or circle possible enclosing the insignia.

3. Illumination

Lights for the illumination of signs shall be located and/or shielded as not to interfere with the enjoyment of a residential Use or detract from the safety of motorists. Lighting on all commercial signs shall be down force, shielded or otherwise designed to prevent light from going into the sky above the sign. Illumination of signs lit from below shall stop at the top of the sign. This shall not require that the edge of the beam of any artificial light source shall not cross any property line of the Lot on which the sign is situated. For this purpose, the edge of the beam is defined as the surface at which the intensity of the light does not exceed ten (10) percent of the luminescence of the center of the beam.

4. Construction signs

A temporary construction sign not exceeding ten (10) square feet is permitted during the active construction process. Such sign shall be removed promptly when the construction process is completed.

5. Development signs

A temporary development sign not exceeding twenty-five (25) square feet is permitted while Lots in the development are offered for sale. Such sign shall be removed when 75% of the Lots are sold.

6. Business signs

Exterior business signs located in any zoning district shall be permitted in connection with any authorized commercial activity located on the same premises and meeting the following requirements:

a) A maximum of two freestanding signs and one attached to a Building per lot. Freestanding signs may be double faced. Signs attached to a Building shall be single faced.

b) The primary purpose of the sign shall be for identification and not for advertising and may state only the owner, trade names, trademarks, products sold and/or the business activity conducted.

c) The height of an exterior business sign or product sign or logo shall not exceed that permitted in the commercial sign footage allowance table

below. Height is measured from the elevation of the abutting Road or Way, or of the finished grade at installation, whichever is higher.

d) All approved or authorized commercial premises retain the right of signage hereunder, but also require Planning Board Site Plan review and approval for the signage.

e) If any commercial Building with more than one operating business uses a cluster sign, the maximum allowance for such cluster building sign shall increase by five (5) square feet per business over the square footage otherwise allowed for the zoning district. Such cluster signs shall be considered as one of the signs permitted for each business.

f) The square footage per commercial sign shall not exceed the amount set forth on the allowance table below:

	Business Sign		Products and Logos	
	area (square ft)	height (feet)	area (square ft)	height (feet)
C-1	20	15	30	15
C-2	25	20	40	20
C-3	40	25	50	25

7. Home Occupation signs or other commercial Use in a residential district:

A Home Occupation or other commercial Use in a residential district is permitted one (1) sign not to exceed ten (10) square feet. The purpose of the sign shall be for identification and not for advertising and may state only the owner and/or trade name.

8. Exempt Signs (not requiring any permit):

a) Historical markers, tablets and statues, memorial signs and plaques, names of buildings and dates of erection when cut into any masonry surface or when constructed of metal, emblems installed by governmental agencies, religious or non-profit organizations, not to exceed twelve (12) square feet.

b) Government flags and insignia.

c) On-premise directional signs for the convenience of the general public, identifying public parking areas, handicapped parking, fire zones, entrances and exits and similar signs, internally illuminated or

non-illuminated, not exceeding six (6) square feet per face. Business names and personal names shall be allowed, excluding advertising messages.

d) Non-illuminating warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.

e) Number and name plates identifying residents or residences mounted on house, apartment or mailbox.

f) Lawn signs identifying residents, not exceeding two (2) square feet per face. Such signs are to be non-illuminated except by a light that is an integral part of a lamppost if used as a support, with no advertising message thereon.

g) Private owner merchandise sale signs for garage sales and auctions, not exceeding eight (8) square feet, for a period not exceeding seven (7) days.

h) Temporary non-illuminated "for sale" or "for rent" real estate signs and signs of similar nature concerning the premises upon which the sign is located. In a residential zoning district, one sign not exceeding eight (8) square feet per face. In a commercial district, one sign not exceeding twenty-five (25) square feet per face. All such signs shall be removed within three (3) days after the sale, lease, or rental of the premises.

i) One temporary sign for a Roadside Stand selling agricultural produce, providing that such sign not exceed sixteen (16) square feet per face of a double face. The sign shall be removed at the end of the selling season.

j) A sign identifying a farm may not exceed twenty (20) square feet per face of a double face.

k) At Automotive Service Stations and other commercial sites integral graphics or attached price signs on gasoline pumps; product graphic and logos not to exceed the square footage set forth in the commercial sign footage allowance table above.

l) All other Temporary signs not to exceed six (6) square feet in the residential districts nor twelve (12) square feet in the commercial districts may not be erected more than forty-five (45) days before and must be removed within seven (7) days after the event.

m) Municipal signs for Town government and Town fire departments.

n) An authorized new business, or a business in a new location, awaiting installation of a permanent sign or the sign Site Plan approval may utilize

a temporary sign. Such a temporary sign must meet all the standards of the Zoning Law.

9. Sign Prohibitions

- a) No sign shall impair visibility for vehicular or pedestrian traffic.
- b) No sign shall be illuminated by or contain intermittent or moving lights except to show time and temperature.
- c) No sign or sign supports shall be placed upon the roof of any Building.
- d) All signs and any part thereof shall be a minimum of ten (10) feet from the edge of the traveled surface of the Road or Way it abuts.

10. Non-conforming Signs

A non-conforming sign shall not be enlarged nor shall it be replaced by another non-conforming sign.

11. Maintenance:

The ZEO shall require proper maintenance of all signs and such signs, together with their supports, shall be kept in good repair and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings. The display surfaces and structures shall be kept neatly maintained at all times.

12. Other Jurisdictions:

Sign regulations set forth herein shall not supersede or take the place of any other Federal, State, County, or local government requirements for signs, but shall be construed to be in addition thereto. Should these sign regulations require a stricter standard than any such other requirements, then the provisions of these sign regulations shall apply. Should any such other requirements require or impose a stricter standard than these sign regulations, then such other requirements shall apply.

13. Waiver of Subdivision:

The Planning Board may grant a Waiver of Subdivision only when a boundary line adjustment:

A) would not create an additional lot

B) any lot otherwise in conformance with the applicable density requirements of Article IV (D) or any other applicable provisions of the Zoning Law would not be rendered nonconforming by virtue of the proposed action, and any of the affected lots are nonconforming would comply with the applicable density requirements to a greater extent and with all other applicable provisions of the Zoning Law to a lesser extent by virtue of proposed boundary line adjustment.

C) either of the following conditions is satisfied:

1. The action involves a modification of an existing lot line or,
2. The action involves the conveyance and merger of a portion of one or more parcels to an adjoining parcel.

H. SEPTIC SYSTEMS

All septic or other waste elimination or disposal systems shall be designed and located so as not to be a source or a potential source of pollution for any body or source of water above or below ground, and such systems shall be built to the standards of, and shall require approval of design and installation by, the Columbia County Health Department. The owner of any failed system shall be liable for all remediation costs, including any clean-up costs with respect to any damaged stream, pond, underground water supply, or other property.

ARTICLE V SUPPLEMENTAL USE REGULATIONS

The following Use regulations shall apply to all zoning districts:

1. Any Use otherwise permitted herein shall not be allowed if it is or results in a Nuisance.
2. In the case of Farms, the provisions of the Columbia County Right to Farm Law shall take precedence over any inconsistent provisions of this Zoning Law.
3. The following Use standards are made a part of this Zoning Law:
 - a. Noise: No noise that is objectionable due to volume, intermittence, beat; frequency or shrillness shall be perceptible outside the Lot where it originates.
 - b. Vibration: No vibration shall be permitted which is detectable without instruments beyond any property line of the Use.
 - c. Smoke: No emission shall be permitted of visible smoke having a six (6) minute average opacity of twenty percent (20%) or greater from any emission point. For the purposes of this regulation, opacity shall mean the degree to which emissions, other than water

are detectable without instruments beyond any property line of the Use.

d. Dust: No emission of dust shall be allowed which travels beyond the property lines of the Use or which constitutes a health hazard or a violation of any environmental laws, rules or regulations of the State or Federal government.

e. Odors: No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be detectable beyond any property line of the Lot from which it is emitted.

f. Heat: No emission of heat shall be allowed which travels beyond any property lines of the Use or which constitutes a health hazard or a violation of any environmental laws, rules or regulations of the State or Federal government.

g. Light: No direct or sky-reflected light shall be allowed whether from lights or from high temperature processes such as combustion or welding, or otherwise, to be visible beyond any property line of the Lot from which it is emitted shall be permitted.

h. Traffic: Excessive traffic or traffic that significantly alters the existing traffic pattern and imposes a significant burden upon the existing roadways servicing a site shall not be allowed.

i. Driveways and Ways: No Building Permit shall be issued herein nor any subdivision approved, unless and until the owner has received approval in writing from the applicable State or local municipal authority for the entrance location to the subject premises. The Town Superintendent of Highways shall review and approve the proposed entrance location to any Town Road and determine that such proposed location will provide adequate access to the subject premises and is not excessively steep, and that the installation of any culverts and other required improvements shall be made in order to provide for required effective drainage. In making such review, the Highway Superintendent may consult and receive input from the Town Engineer, if appropriate. The Town may require an easement, if necessary, to permit the Town to properly maintain the areas adjacent to the Road. However, nothing set forth herein shall be construed to impose any liability upon the Highway Superintendent or the Town of Canaan with regard to the location of any such entranceways. See also definition of Driveway herein and Local Law Number One of 1988, which establishes standards for subdivision Ways.

ARTICLE VI – PLANNING BOARD

A: ESTABLISHMENT AND DUTIES

A Planning Board is hereby established to review and take action on Site Plan applications per the requirements of the Town of Canaan Zoning Law, Subdivision and Boundary Line Adjustment applications per the requirements of the Land Subdivision Regulations of the Town of Canaan and applications for Telecommunication Facility Special Permits under Article VIII, subsection D of the Town of Canaan Zoning Law. The Planning Board shall consist of 7 (seven) members, appointed by the Town Board and shall have the duties, rights, powers and functions conferred upon it by Article 16 of the NYS Town Law including but not limited to the following:

The Planning Board shall from time to time review the Town Zoning Law, the Land Subdivision Regulations Town of Canaan Road Specifications to make recommendations to the Town Board for changes therein based upon such review and shall also perform such other duties as the Town Board shall authorize.

The Planning Board shall also be authorized to prepare a proposed Comprehensive Plan in accordance with section 272-a of Article 16 of New York State Town Law.

The Planning Board shall be subject to the following provisions:

- 1. Meetings:** Meetings of the Planning Board shall be held monthly and at such other times as shall be called by the Chairmen or on the written request of five (5) Board members. All meetings of the Board shall be open to the public to the extent provided in Article 7 of the Public Officer's Law. The Clerk of the Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.
- 2. Records:** All decisions of the Board shall be in writing, and a copy of each decision shall be sent to the applicant and to the ZEO. Every requirement, decision, and determination of the Board shall be filed in the Office of the Town Clerk, and shall be a public record. Each decision of the Board shall set forth the reason for the decision.
- 3. Public Hearings and Determination:** The Planning Board shall fix a reasonable time for any proposed or required hearing(s) and give due notice thereof to the applicants. It shall publish notice of any hearing at least once in the official newspaper of the Town at least five (5) days before the date of the hearing. At the hearing, any party may appear in person or by agent or by attorney. The Planning Board shall make such requirement, decision, or determination as in its opinion ought to be made

upon the basis of the information available. The Planning Board shall file its decision with the Town Clerk within five (5) business days after the decision is rendered.

B. SITE PLAN REVIEW

Site plan review and approval by the Planning Board is required for 1) a special permit, 2) a Variance other than one involving only a Single-Family Dwelling or an Accessory Dwelling or 3) any proposed change in a Use other than a Single Family Dwelling or an Accessory Dwelling if such Use did not, when established, require a special permit or variance but would have required, if first established at the time of such change. The Planning Board shall not be required to hold a public hearing in connection with any site plan review, but may do so if, in the sole discretion of the Planning Board, it deems same to be appropriate.

Subsequent provisions of this Article VI, Section B are not applicable to Telecommunication Special Permits, see Article VIII, subsection D regarding Telecommunication Facilities.

1. Application and Review

a) Application for a building or use permit shall be made to the ZEO prior to the commencement of the excavation for, or the construction of, any Building or Structure or other Use. If, upon receipt of such application, the ZEO decides that the proposed building or use permit requires a Special Permit, he shall forward the application to the ZBA. If site plan review is required, the ZBA will forward a copy of the application to the Planning Board for review and determination.

b) Applicant shall provide the Planning Board with seven (7) copies of all items required by the Planning Board for their review of the site plan and such copies shall be submitted to the Clerk of the Planning Board at least ten (10) days prior to the date of the next Planning Board meeting. Failure of the applicant to comply with these requirements shall result in the matter being deferred until such time as these requirements are met or, in the alternative, the dismissal of the application.

2. Action of the Planning Board

a) Upon receipt of the application for site plan review, the Planning Board shall notify the applicant in writing of the place, date, and time of the meeting at which the application is to be considered and request the applicant's presence for a complete evaluation.

b) Within sixty-two (62) days of the receipt and acceptance of a complete application and after the applicant has had the opportunity to meet with the Planning Board, the Board shall approve, approve with modifications or disapprove the site plan. The decision of the Planning Board shall be expressed in a report to the ZBA. A copy of said report shall be mailed to the applicant at the address indicated on the application and a copy shall also be filed with the Town Clerk and ZEO.

c) The final approved site plan shall be a condition of the final approved ZBA Special Permit.

3. Review Standards

The Planning Board's review of a site plan shall take into consideration the requirements of the Zoning Law, including the official zoning map and the purposes of the Zoning Law set forth in Article I, and shall include, as appropriate, review of the matters described in paragraphs (a) through (l) below. The Planning Board may, in its discretion, waive or simplify any of the requirements of this subsection 3 or of subsection 4 that are unnecessary or inappropriate for its review of an application.

- a) Location, arrangement, size and design of Buildings, other Structures, storage areas, utilities, easements, retaining walls, fences, lighting and signs shall be compatible with each other and with the site as a whole. Sufficient separation between Buildings and other Structures shall be maintained to ensure adequate and safe access and adequate light and air circulation.
- b) Adequacy and arrangement of vehicular traffic access and circulation, including Driveways, Ways, intersections, road widths, pavement surfaces, dividers and traffic signs and other controls. All proposed traffic access points and internal Ways shall be adequate but not excessive in number, adequate in grade, alignment and visibility and not located too near street corners or other places of public assembly.
- c) Location, arrangement, appearance and adequacy of off-street parking and loading. Off-street parking and loading facilities and spaces shall be arranged to prevent parking in Roads of vehicles of persons living or working in or visiting the site. The interior circulation system shall be adequate to provide safe accessibility to, from and within all off-street parking and loading areas.
- d) Adequacy, safety, convenience and arrangement of pedestrian traffic access and circulation both within the site and to adjacent Roads and

Ways, walkway structures, and control by signs and other means of intersections with vehicular traffic.

- e) Location and adequacy of storm water and drainage facilities. Drainage shall be conducted to a point of adequate and suitable disposal. Storm water control shall be provided so as to prevent increased overflow to, or other adverse overflow impacts on neighboring properties, Roads and Ways. Storm water and drainage facilities shall be designed to control erosion and sedimentation.
- f) Location and adequacy of water supply and refuse and sewage disposal facilities. Refuse and sewage disposal facilities shall be designed and sufficient to safely handle the type and volume of refuse and sewage that can reasonably be anticipated will be generated by the Uses proposed for the site.
- g) Location, adequacy, type and arrangement of trees, shrubs, fences and other landscaping constituting visual and/or noise buffers between the site and adjoining lands, including the extent of retention of existing vegetation. The scale, type and quality of the landscaping and screening on site shall be harmonious with the character of the neighborhood.
- h) Location and adequacy of fire lanes and other emergency zones and the provision of fire hydrant or other fire protection facilities.
- i) Environmental matters, including the impact of site Structures, Ways, Driveways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. All bodies of water, wetlands, steep slopes, major stands of trees and areas of major scenic, ecological or historic value shall be preserved insofar as possible.
- j) Adequacy and safety of snow clearance and removal plan.
- k) Impact on infrastructure. The proposed Use shall not place an undue burden on the capacity of the existing infrastructure (e.g. Roads, utilities, drainage). If infrastructure capacity is inadequate to support the Use, the applicant shall provide the necessary infrastructure improvements or mitigate the impact of the Use on the infrastructure.
- l) Overall impact on the neighborhood including compatibility of design and impact on open space. Neighboring properties shall be protected against noise, glare, unsightliness or other objectionable impacts.

4. Additional Information Required for Site Plan Review

The following information and documents shall be submitted in connection with any Site Plan review:

a) Vicinity Map: This map shall be drawn at the scale of two thousand (2,000) feet to the inch or larger, and show the relationship of the site and the proposed Use to existing community and infrastructure facilities that may affect or serve it, such as Roads, shopping areas, schools, municipal facilities and utilities. It shall also show all properties, subdivisions, Roads, Ways, and easements in or within five hundred (500) feet of the site. The map may be superimposed on a U.S. Geological map of the area.

b) Topographical Map: This map of the site described in the application shall be drawn at the scale of one hundred (100) feet to the inch or larger if requested by the Planning Board and shall show existing topography at a contour interval of not more than five (5) feet. The map shall also show the location of pertinent natural features that may influence the design of the proposed Use, such as watercourses, swamps, wetlands, rock outcrops and any other features referred to in subparagraph (i) of subsection 3 above.

c) Site Plan: This map of the site shall be drawn to the same scale as the topographic map required by subsection (b) above and shall show the location and extent of all existing and proposed Structures, Automobile Parking Spaces, parking and loading spaces for commercial vehicles, the location and width of all Ways, Driveways, exits and entrances, the location, extent and type of all storage areas, utilities, the location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences and shall provide a description and the location of sewage, refuse disposal and water facilities, the location and size of all signs, the location, type and extent of proposed buffer areas, the design and location of lighting facilities, and the location and other relevant information regarding all other matters required to be considered by the Planning Board pursuant to subparagraphs (a) through (k) of subsection 3 above.

d) Grading and Other Plans: The application shall include proposed grading plans and the width and depth of gravel or other paving of all Roads, Ways, Driveways and parking and loading areas as well as plans for drainage of surface and/or sub surface storm and other water and erosion and sedimentation control and detailed information regarding any blasting that the applicant anticipates will be necessary, including the impact that any proposed blasting will have on adjacent properties, wells and water sources.

e) **Elevation, footprint and section:** The site plan shall include elevations, footprints and sections at the same or, at the request of the Planning Board, a larger scale than that required for the site plan, drawn in sufficient detail to delineate clearly the bulk square footage and height of all Buildings and Structures included in the proposed Use.

5: Changes in Use or layout: A site plan approval granted in accordance with this Article shall authorize only the particular Use, Lot layout and configuration depicted on the approved plan. No change in such Use, layout or configuration shall be permitted to be created or maintained without an amendment to such site plan approved by the Planning Board pursuant to this Article as if such amendment were a new site plan subject to all of the requirements of this Article.

6: Expiration: Site plan approval shall expire if a Building Permit is not issued within a period of one (1) year from the date of such approval.

7: SEQRA: The applicant must also comply with all requirements of the New York State Environmental Quality Review Act (SEQRA).

ARTICLE VII - ZONING BOARD OF APPEALS

A. Establishment and Duties: A Zoning Board of Appeals, herein called the ZBA, is hereby established to interpret the provisions of this Zoning Law and to review any order, requirement, decision, or determination made by the Zoning Enforcement Officer (ZEO). The ZBA shall consist of five (5) members, appointed by the Town Board, and have the duties, rights, powers, and functions conferred upon it by Article 16 of the Town Law, including, but not limited to, the following:

1. Meetings: Meetings of the ZBA shall be held at the call of the Chairman, or on the written request of two or more ZBA members, and at such other times as the ZBA may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the ZBA shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Clerk of the ZBA shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

2. Records: All decisions of the ZBA shall be in writing, and a copy of each decision shall be sent to the applicant and to the ZEO. Every ruling, regulation, amendment, or repeal thereof, and every order, requirement, decision, determination of the ZBA shall be filed in the Office of the Town Clerk, and shall

be a public record. Each decision of the ZBA shall set forth the reason for the decision and the findings of fact on which the decision was based.

3. Appeal: The ZBA shall hear and decide appeals from and review any order, requirement, decision or determination made by the ZEO. It shall also hear and decide upon all matters referred to it upon which it is required to pass under this Zoning Law. The concurring vote of a majority of the ZBA shall be necessary to reverse any order, requirement, decision or determination of the ZEO, or to decide in favor of the applicant on any matter upon which it is required to pass under this Zoning Law or to effect any variation in this Zoning Law. An appeal may be initiated by any aggrieved person, or by any officer, department, or bureau of the Town. Such appeal shall be taken within thirty (30) days after the decision of the ZEO. Such appeal is taken by filing a Notice of Appeal with the ZBA, specifying the grounds therefore. If there is an appeal, the ZEO shall transmit to the ZBA all of the documents constituting the record in the matter.

4. Interpretation: The ZBA shall, upon appeal, decide any appeal from a determination of the ZEO on questions where it is alleged there is an error in any order, requirement, decision, or determination made by the ZEO involving the interpretation of any provision of this Zoning Law.

5. Variances: The ZBA may grant Use Variances and/or Area Variances in accordance with the criteria, provisions and requirements set forth in Section 267-b of the NYS Town Law, now existing and same may be amended from time to time hereafter. In granting such Use Variances and/or Area Variances, the ZBA may specify appropriate conditions and standards that may include approval, conditional approval, or disapproval as required to carry out the provisions of this Zoning Law.

6. Special Permits: Upon application, supplementing an application to the ZEO for a Zoning Permit, the ZBA shall hear and decide applications for Special Permit uses where approval of the ZBA is required under this Zoning Law. In granting such a Special Permit, the ZBA may specify appropriate conditions and standards that may include approval, conditional approval, or disapproval as required to carry out the provisions of this Zoning Law.

7. Public Hearings and Determination: The ZBA shall fix a reasonable time for the hearing of appeals or of applications for special permits or variances and give due notice thereof to the applicants. It shall publish notice of the proposed hearings at least once in the official newspaper of the Town at least five (5) days before the date of the hearing. At the hearing, any party may appear in person or by agent or attorney. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made upon the basis of the information available, and to that end, shall have all the powers of the officer from whom the appeal is taken. The ZBA

shall file its decision with the Town Clerk within five (5) business days after the decision is rendered.

8. Notice to Neighboring Landowners: Applicants for a variance shall give written notice to all owners of property within five hundred (500) feet of the property affected by the application. Such written notice shall state that a public hearing will be held on the application, as well as the place, time, and date of the public hearing. Such written notice shall be mailed or delivered by hand at least fifteen (15) days prior to the date of the public hearing and the applicant shall submit adequate proof of such notice to the ZBA at the time of the hearing. The Board may decline to proceed with the application if such proof is not presented.

9. **Referral:** Any application for a variance or Special Permit shall be referred by the ZBA to the Planning Board for site plan review when required by Article VI and also to the Columbia County Planning Department for recommendation or report if required by the General Municipal Law.

ARTICLE VIII - SPECIAL PERMIT USES

A. General Procedure and Conditions

1. Prior to taking action on any special permit use; the ZBA shall hold a public hearing after public notice. No final action shall be taken respecting such matter until the Planning Board has forwarded approval of any required site plan to the ZBA. All interested parties shall be given an opportunity to be heard at the ZBA public hearing.

2. All matters which are subject to mandatory referral or notice to other agencies shall be transmitted to the appropriate agencies for their review.

3. A special permit authorization by the ZBA for the issuance of a Building Permit shall expire ninety (90) days after such authorization in the event that such permit shall not be applied for within that period. Extension of such authorization may be granted by the ZBA for an additional ninety (90) day period due to a determined hardship condition. Expiration of a special permit authorization shall be stayed in the event failure to apply for a Building Permit is due to related legal proceedings.

4. Any violation of the limitations or special conditions and safeguards established by the ZBA with respect to a specific authorization for a Special Permit shall be deemed a violation of this law, punishable under the provisions of Article IX.

5. All applications for a Special Permit Use shall be subject to the provisions of the New York State Environmental Quality Review Act (SEQRA).

B. General Standards

1. For every such Special Permit Use, the ZBA shall determine that:
 - a) Such Use will be in harmony with and promote the general purposes and intent of this law as stated in Article I.
 - b) The plot area is sufficient, appropriate and adequate for the Use and the reasonably anticipated operation and expansion thereof.
 - c) The proposed Use will not prevent the orderly and reasonable use of adjacent properties or adjacent zoning districts.
 - d) The site is particularly suitable for the location of such Use in the community.
 - e) The characteristics of the proposed Use are not such that its proposed location would be unsuitably near to a church or other house of worship, school, Theater, recreational area or other place of public assembly.
 - f) Access facilities are adequate for the estimated traffic from public Roads, Ways and sidewalks, so as to assure the public safety and to avoid traffic congestion.
 - g) All proposed curb cuts have been approved by the road or highway agency that has jurisdiction.
 - h) The proposed use of the land and/or Buildings will not have a detrimental effect upon the value of other land and/or Buildings in the district.
 - i) The location, size of the Use, nature and scope of the operations, site layout, and its relation to Roads and Ways giving access to it shall be such that traffic to and from the Use and the assembly of persons will not be hazardous, inconvenient or detrimental to the neighborhood.

In applying this standard, the ZBA shall consider, among other things, convenient and safe routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to intersections, and the general character and intensity of the development of the neighborhood.

- j) The applicant has secured all necessary permits from any Federal, State or local authority.

2. The use of land for a Gravel Bank, Quarry or Mine shall be subjected to compliance with all New York State Rules and Regulations related to mining excavation and mined land reclamation.

3. In addition to all of the other rules and regulations as set forth in this Zoning Law for Uses authorized by Special Permit, the following specific criteria apply for consideration and approval by the ZBA for the issuance of a Special Permit, and by the Planning Board for consideration and approval of a site plan for, a Multi-Family Dwelling in the C-2 and C-3 districts:

a) The intent of the Zoning Law in allowing such Use in these zones by Special Permit is to:

1) Establish a choice of available living units that will provide residential land use of quality and affordability to Canaan residents and guarantee a permanent and long-term asset to the Town.

2) Encourage open space and recreation areas as needed for high-density living.

3) Create efficient use of land resulting in smaller networks of utilities and streets.

4) Insure an environment in harmony with surrounding existing and anticipated Uses.

b) The following specific requirements apply to such proposed Use:

1) A minimum Lot size of two (2) acres.

2) The combined Building Area of all Buildings, including Accessory Buildings, shall not exceed ten percent (10%) of the total Lot area.

3) There shall be a minimum Lot frontage of 275 feet.

4) In each Building, every Dwelling Unit under seven hundred (700) square feet shall require an equal number of Dwelling Units over eight hundred (800) square feet. In no event may a Dwelling Unit be less than six hundred (600) square feet.

5) There shall be a minimum Front Yard Setback of one hundred (100) feet from the centerline of any Road and fifty-five (55) feet from the centerline of any Way within the site boundaries.

6) The Side Yard Setback minimum shall be fifty (50) feet between any Building and abutting properties or seventy-five (75) feet from the centerline of any abutting Road and a minimum of thirty (30) feet between each Building.

7) The Rear Yard Setback minimum shall be fifty (50) feet to the rear abutting property line. For through Lots, the rear yard minimum shall be one hundred (100) feet to the centerline of any Road and fifty-five (55) feet to the centerline of any Way.

8) No parking area shall be closer than ten (10) feet from any boundary line and fifteen (15) feet from any Buildings on the site.

9) No permit for the construction of a Multi-Family Dwelling shall be issued until the applicant shall have first received site plan approval from the Planning Board in accordance with Article VI.

10) The Site Plan shall in any event include a landscaping plan that will show existing natural features to be preserved as well as those landscaped features to be installed. The Site Plan shall also show open space, recreational facilities, refuse areas, screening and other amenities.

11) All vehicle paving (gravel or asphalt) shall provide for safe, convenient, durable and economical all-weather access. The owner shall provide a plan showing a program of maintenance and repair of all Ways and utilities.

12) A staged development plan may be approved at the discretion of the Planning Board providing that a completion bond in an amount deemed adequate by the Planning Board is posted with the Town prior to beginning work and throughout the project development.

13) Each Multi-Family Dwelling shall incorporate within its front elevation varying offsets and facades to the extent required by the Planning Board.

14) For all Multi-Family Dwelling projects of more than 12 units, the ZBA shall refer the application to the Town Board for its approval or disapproval of the project based upon consideration of the purposes set forth in Article I of this Zoning Law.

C. Notice to Neighboring Landowners

Applicants for a special permit shall give written notice to all owners of property within five hundred (500) feet of the property line affected by the application. Such written notice shall state that a public hearing will be held by the ZBA on the application, as well as the place, time, and date of the hearing. Such written notice shall be mailed or delivered by hand at least fifteen (15) days prior to the date of the hearing and the applicant shall submit adequate proof of such notice to the ZBA at the time of the hearing. The ZBA may decline to proceed with the application if such proof is not presented.

D. Telecommunication Facility (see Appendix II)

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

A. Relation of Zoning Regulations to Other Provisions of Law and to Private Covenants and Agreements

1. Nothing contained in this Zoning Law shall be taken to repeal, abrogate, annul or in any way impair or interfere with the New York State Fire and Building Code or any rules or regulations adopted or issued there under, or any other provisions of Federal, State or local law, ordinance, or regulations, existing or as may be adopted in the future. Nor is it intended by this Zoning Law to interfere with or abrogate or annul any easements, covenants or other agreements between parties. However when this Zoning Law imposes a greater restriction upon the use of Buildings, Structures, premises, Lots or land, or upon the height of Buildings or Structures, or requires larger Lots, yards, or other open spaces than imposed or required by such other provision of law, ordinance or regulations, or by such easements, covenants or agreements, the provisions of this Zoning Law shall control unless otherwise required by such other provisions of law, ordinance or regulations.
2. Wherever the provisions of any other Federal, State or local law or ordinance or regulation impose a greater restriction than this Zoning Law, the provisions of such other law or ordinance or regulation shall control.
3. No provision contained in this Zoning Law shall be construed as justifying the encroachment of any Building or Structure within any Road or Way now or hereafter laid down on any subdivision plat filed in the office of the County Clerk or within any Federal, State, County or municipal Road.

B. Permits and Enforcement

- 1. Zoning Enforcement Officer:** This Zoning Law shall be administered and enforced by a person designated by the Town Board as the Zoning Enforcement Officer (ZEO), who is also the Building Code Enforcement Officer, and whose duty it shall be to:
 - a) Issue temporary permits, building permits, use permits and occupancy permits as described herein.
 - b) Enforce the provisions of this Zoning Law.

In order to carry out the foregoing duties, the ZEO shall have, and is hereby given, the power to make such inspections of premises and Structures under construction and, completed Structures, as may be necessary to carry out his duties. No permit required hereunder shall be issued by the ZEO except in compliance with the provisions of this Zoning Law, or as provided in any variance granted by the ZBA. The ZEO shall submit monthly reports of his activities and issued permits to the Town Board.

- 2. Permits:** No Structure shall be erected, enlarged, altered or moved, and no Use shall be established or changed in the Town of Canaan unless a permit for such activity has been issued by the ZEO pursuant to the provisions set forth herein. The ZEO may require such information as, in his sole discretion, may be necessary to determine if the proposed Structure or Use is in accordance with the provisions of this Zoning Law.
 - a. Building Permit:** No Structure (including a sign) shall be erected, altered, moved, or enlarged, and no excavation for any construction shall be started unless a Building Permit for such work has been issued by the ZEO. Applications for a Building Permit shall be submitted in duplicate on a form provided by the ZEO. Each application shall set forth the purpose for which the proposed Structure is intended to be used and shall be accompanied by a plot plan showing the locations and dimensions of the Lot and of the Structure.
 - b. Use Permit:** A Use Permit shall be required for all uses established or changed in the Town of Canaan. No use shall be established or changed in the Town of Canaan unless a permit for such use has been issued by the ZEO.
 - c. Temporary Permits:** The ZEO is hereby authorized to issue a Temporary Permit for the following activities:

1. The temporary placement of a Storage Container used for storage in the Rear Yard of any residential Lot for a period not to exceed sixty (60) days in any one calendar year.
2. Structures used temporarily in conjunction with construction for up to one (1) year. If the construction project is being actively pursued, the permit may be renewed by the ZEO for an additional one (1) year period. Temporary Structures must be removed within thirty (30) days of the completion of the project.
3. The temporary placement and use of a Mobile Home or Recreational Vehicle on any residential Lot for a period not to exceed one (1) year in the event of major destruction of a residence situated on that Lot.
4. All temporary Uses must comply with Setback and other relevant provisions of this Zoning Law.
5. Any additional temporary Use that may be specified under this Zoning Law.

C. Interpretations

1. Should the ZEO be 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 use permit, building permit or a Certificate of Occupancy in a particular case relating to the provisions of this law, he shall refer the matter to the ZBA or in the case of a Telecommunication Facility, the Planning Board for interpretation and decision.
2. The ZEO shall adopt standards, consistent with this law, for the purpose of assuring efficient and uniform administration of its provisions.
3. If the ZEO should mistakenly issue a Building or Use Permit that is not in accordance with the provisions of this law, that Building or Use Permit shall be invalid, and the ZEO shall give prompt written notice of such invalidity to the permittee.
4. No Building Permit or Use Permit shall be issued herein unless and until the owner can demonstrate full compliance with the regulations concerning Flood Area Overzone, if applicable, and compliance with the regulations of the New York State Department of Environmental Conservation with regard to construction within a wetlands area, if applicable.

D. Reimbursement of Expenses

1. In addition to any fees required by an applicant appearing before the ZBA or Planning Board in connection with a request for a Special Permit, variance or interpretation of the Zoning Law, or any fees required of an applicant appearing before the Planning Board or ZBA in connection with a request for Site Plan review, subdivision approval or in connection with any application made for a Building or Use permit which is a Permitted Use, but which requires Site Plan approval, the applicant shall also be required to pay all expenses incurred by the ZBA or Planning Board in connection with the processing of such application including any reasonable fees and expenses incurred by either Board for the retention of a planner, engineer, attorney, architect, or other expert as provided for in paragraph 2 herein.
2. In connection with any application before the ZBA or the Planning Board, such Boards are hereby authorized and empowered to retain a planner, engineer, attorney, architect, or other deemed necessary by the ZBA or Planning Board to review and evaluate an application. The reviewing Board may require related fees and expenses to be paid in advance and may suspend review of an application until such payment is made.

E. Completion of Building for Which a Permit Has Been Issued

1. Nothing in this law shall require any change in the plans, construction or designated use of a Building or Structure for which a lawful Building Permit has been issued prior to the effective date of this Zoning Law provided that:
 - a) The construction of any Building or Structure for which a permit has been issued shall have begun within one (1) year after the date of issuance of such permit and thereafter diligently pursued.
 - b) The entire Building or Structure shall be completed according to the plans, which have been approved by the ZEO and upon which the issuance of such permit was based, within two (2) years from the effective date of this Zoning Law. A further extension of one (1) year may be granted for an additional permit fee of fifty percent (50%) of the original fee.
 - c) In the event that any of the above conditions is not complied with, the Building Permit shall be void.

F. Certificates of Occupancy

1. It shall be unlawful to use or occupy or to permit the use or occupancy of any Building, Structure, premises, Lot or land, or part thereof, hereafter erected or altered, enlarged or moved, or put into use, in whole or in part, after June 10, 1985, or of any building, Structure, premises, Lot or land, or part thereof of which the use is changed, until a Certificate of Occupancy has been obtained by the owner.
1. No Certificate of Occupancy shall be issued for any Building, Structure, premises, Lot or land unless the erection, construction, reconstruction, structural alteration, restoration, repair or moving of such Building or Structure or part thereof and the intended use thereof are in conformity in all respects with the provisions of this Zoning Law, including compliance with any site plan approval and with any conditions imposed by the ZBA or Planning Board, and also in conformity in all respects with the New York State Fire Prevention and Building Code, full compliance with the regulations concerning the Flood Area Overzone, if applicable, and compliance with the regulations of the Department of Environmental Conservation, if applicable, and in the case of Certificates of Occupancy issued after January 01, 2003, septic system approval by the Columbia County Department of Health, if required.

G. Fees

The fees for Building and Use Permits issued under the term of this Zoning Law shall be such as are determined by Resolution of the Town Board from time to time. The current effective schedule of fees will be on file at all times with the Town Clerk from whom a copy is available upon request.

H. Violations

1. Any person or corporation, whether as owner, contractor, lessee, agent or employee, who shall violate any of the provisions of this Zoning Law, or fails to obtain a permit before commencing any Use or construction, alteration or change when a permit is required or who fails to comply with a Notice, Order or regulation made hereunder or authorized by any New York State law or regulation, or with regard to any conditions imposed for any Use or Building Permit hereunder, or who erects, alters, moves or uses any Building, Structure or land in violation of any statements or drawings submitted by him and approved under the provisions of this Zoning Law, shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding \$350.00 or imprisonment not to exceed fifteen (15) days, or both, for a first offense, for conviction of a second offense committed within a five (5) year period by a fine not exceeding \$700.00 or imprisonment not to exceed

fifteen (15) days, or both, and for conviction of each further violation within a five (5) year period by a fine not exceeding \$1,000.00 or imprisonment not to exceed six (6) months, or both. For the purposes of this subsection, a penalty for a violation may be assessed as of the date that the ZEO sends a Notice of Violation, by certified mail, return receipt requested, to the applicable party advising of such violation, at which time the applicable penalties referred to herein shall apply. Each and every week such violation continues thereafter shall be deemed a separate and distinct violation without the necessity of the ZEO sending any further notices in this regard.

2. The ZEO may take action with respect to any alleged violation of this Zoning Law that he has discovered himself or which is the subject of a complaint of any person.
3. Any person may file a complaint with regard to an alleged violation of this Zoning Law. All such complaints must be in writing and filed with the ZEO who shall record, investigate and report on the same to the Town Supervisor within fourteen (14) days after receiving the complaint.
4. There shall be a presumption that the owner of any Building, Structure, or Lot has control over the same and with regard to what is occurring thereon and there shall be a presumption that such owner has knowledge of the existence of a violation occurring in or with respect to such Building or Structure or upon such Lot and has the power to remedy same. The owner of any Building, Structure or Lot in or with respect to which a violation exists may, when notified of such violation, provide the ZEO with evidence that such owner has no possession or control over same and has, in no way, caused or permitted such violation. Such submission must be in writing and must also set forth to the best of the owner's knowledge the person or party who has possession and/or control of the premises and/or who has caused or permitted the violation to exist. If the ZEO is satisfied that the owner has, by clear and convincing evidence, established that such owner is in no way responsible for the violation, the ZEO shall not proceed against the owner, but shall instead proceed against the party or parties who have caused the violation. The failure of the owner to notify the ZEO within fourteen (14) days after notice of the violation is given that such owner has no control over the Building, Structure or Lot involved and has in no way caused the violation, shall be presumptive evidence that such owner has, in fact, caused, or is responsible for such violation, and upon the trial of the matter, the ZEO need only establish the ownership of the premises and the facts constituting the violation.

5. Upon a violation of this Zoning Law, the ZEO may charge any person, or organization, violating this Zoning Law with such violation before an appropriate Court and may file all appropriate documents in connection therewith. If a party served with such violation does not voluntarily appear before the appropriate Court, a warrant for arrest may be issued pursuant to the provisions of the Criminal Procedure Law.
6. In addition to all of the other remedies provided by law or provided for herein, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken by or on behalf of the Town to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use of any Building, Structure or Lot, to restrain, correct or abate any violation of this Zoning Law, to prevent the occupancy of such Building, Structure or Lot, or to prevent an illegal act, conduct, business or use in or about any premises. With respect to any such proceedings taken by or on behalf of the Town as set forth herein, the Town shall be entitled to reimbursement from the violator for all costs, expenses and reasonable attorney's fees incurred.
7. In addition to all of the other remedies provided by law or provided for herein, the ZEO may serve upon a violator a Cease and Desist Order from any conduct prohibited herein. If the violator continues such conduct at the subject premises after service of such Notice, this shall constitute a distinct and separate violation of this Zoning Law and shall be punishable pursuant to the provisions of Paragraph "H", Subparagraph "1". Service of a Cease and Desist Order may be made by personal service upon the violator(s) or may be made by certified mail, return receipt requested, to the violator's address, with an additional copy being mailed by regular mail.

ARTICLE X - VALIDITY

If any section or subsection, paragraph, clause, phrase or provision of this law, or the location of any district boundary shown on the Zoning Map that forms a part hereof shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this law or Zoning Map as a whole or in any part or provision hereof other than the part so adjudged to be invalid or unconstitutional.

ARTICLE XI - RELIEF FROM DECISIONS

Any person or persons jointly or severally aggrieved by a decision of the ZBA, ZEO or the Planning Board hereunder may apply to the Supreme Court for relief by proceeding under section 282 of the General Municipal Law of the State of New York or any applicable provision of Article 78 of the Civil Practice Laws and Rules of the State of

New York within thirty (30) days after the filing of a decision in the Office of the Town Clerk.

ARTICLE XII
REPLACEMENT OF EXISTING LOCAL LAW REGARDING ZONING

This Zoning Law replaces in its entirety the existing Local Law regarding zoning for the Town of Canaan which was enacted on or about June 10, 1985 and which was referred to as Local Law No. 1 of 1985, as well as all amendments thereto, including Local Law No. 3 of the year 1986, Local Law No. 2 of the year 1987, Local Law 6 of the year 1994, Local Law No. 2 of 1999 (Telecommunication Law), Local Law No. 2 of 2004 and supercedes any and all other local laws and ordinances of the Town of Canaan to the extent that same may be inconsistent with the provisions hereof.

ARTICLE XIII - WHEN EFFECTIVE

This Zoning Law shall take effect upon enactment and publication in the manner provided by law.