

DRAFT Zoning
~~Ordinance~~ Law UPDATES

Town of Danby, New York

Presented to the Town Board
of the
Town of Danby
~~November 16th~~ December 1st, 2021

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ARTICLE I: TITLE

TOWN OF DANBY, NEW YORK, ZONING ~~ORDINANCE~~LOCAL LAW

ARTICLE II: PURPOSE

Section 200 - PURPOSE. For the purpose of promoting the health, safety, morals, and the general welfare of the community, and in furtherance of the Town of Danby Comprehensive plan, to lessen congestion on the highways, to secure safety from fire, panic, and other dangers, to protect the environment, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, under and pursuant to the laws of the State of New York, the size of the buildings and other structures, the percentage of the lot that may be occupied, the size of the yards, the density of population, and the location and use of buildings, structures and land for trade, residence or other purposes, are hereby restricted and regulated as hereinafter provided.

ARTICLE III: DEFINITIONS

Section 300 - INTERPRETATION. Except where specifically defined herein all words used in this ~~Ordinance~~Local Law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot;" the word "shall" is intended to be mandatory; and the words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied" and the word "he" includes "it" and "she".

Section 301 - DEFINED TERMS. Certain specific words and terms used in this ~~Ordinance~~Local Law are to be interpreted as defined in Appendix I hereto and hereby made a part of this ~~ordinanee~~Local Law.

ARTICLE IV: ESTABLISHMENT OF ZONES

Section 400 - ZONES. The Town of Danby is divided into the following types of zones (also sometimes hereinafter referred to as "Districts"):

1. High Priority Preservation
2. Rural 1
3. Rural 2

4. Low Density Residential Zone.
5. Hamlet Neighborhood
6. Hamlet Center
7. Commercial
- ~~8.~~ 8. Planned Development Zone.
- ~~89.~~ 89. Mobile Home Park Zone.
- ~~910.~~ 910. Aquifer High Vulnerability (AHV) Overlay Zone. ~~[8-16]~~
- ~~1011.~~ 1011. Stream Setback Overlay Zone
- ~~1112.~~ 1112. Habitat Corridor Overlay Zone
- ~~1213.~~ 1213. Agricultural Support Commercial Uses Floating Zone

Section 401 - MAP. Zones are bounded as shown on a map entitled "Zoning Map Town of Danby," adopted December xx, 2021, and signed by the Town Clerk. New zones may be created as set forth in this ~~Ordinance~~Local Law. The boundaries of the Aquifer High Vulnerability (AHV) Overlay Zone are established herein as delineated on a map entitled "Aquifer High Vulnerability (AHV) Overlay Zone Map, Town of Danby," dated December xx, 2021 and kept on file in the office of the Town Clerk. ~~[8-16]~~

Section 402 - ZONE BOUNDARIES. Where uncertainty exists with respect to the boundaries of any of the aforesaid zones as shown on the Zoning Map, the following rules shall apply:

1. Where zone boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries.
2. Where zone boundaries are so indicated that they approximately follow the lot lines as shown on plots of record at the time this ~~Ordinance~~Local Law becomes effective, or lot lines on plots of record at the time of any amendment rezoning an area, then such lot lines shall be construed to be said boundaries.
3. Where zone boundaries are so indicated that they are approximately parallel to the center lines of street lines or streets, or the center lines or right-of-way lines of highways, such zone boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on said

zoning map.

4. Where the boundary of a zone follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
5. Where the boundary of a zone follows a stream, lake or other body of water, unless otherwise indicated said boundary line shall be deemed to be at the center line of said stream, lake, or other body of water, unless said center line is outside the jurisdiction of the Town of Danby, in which event said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Danby.

ARTICLE V: GENERAL PROVISIONS

Section 500 - APPLICATION. Except as hereinafter provided, the following general regulations shall apply.

Section 501 - USE AND OCCUPANCY. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless such action is in conformance with the regulations specified for the zone in which said action occurs and any special regulations pertinent thereto.

Section 502 - LIMITATION OF UNITS. No building shall hereafter be erected or altered to accommodate a greater number of housing units than is permitted in the zone in which the building is located.

Section 503 - BUILDING FLOOR AREA. No dwelling in any zone shall be erected or altered so as to provide for less than the minimum number of square feet of enclosed floor area permitted by the Building Code.

Section 504 - CREATION OF SUBSIZE LOT. No lot shall hereafter be reduced or altered, by subdivision or otherwise, so as to result in a lot that does not meet the minimum area or yard requirements prescribed by this ~~Ordinance~~Local Law.

Section 505 - PRE-EXISTING LOTS. A small lot, which was a legal building lot before adoption of this ~~Ordinance~~Local Law (or adoption of an amendment to this ~~Ordinance~~Local Law changing the lot to a non-conforming lot) and which does not meet the minimum requirements of this ~~Ordinance~~Local Law for the zone in which it is located at the time the ~~Ordinance~~Local Law was adopted (or so amended), may be used for any use permitted within said zone provided that all structures on said lot otherwise comply with the terms of this ~~Ordinance~~Local Law. A building already constructed on such a lot may be altered or enlarged provided that the proposed alteration or enlargement otherwise complies with the terms of this ~~Ordinance~~Local Law at the time of such alteration or enlargement.

Section 506 - TOMPKINS COUNTY HEALTH DEPARTMENT APPROVAL. No

building permit, trailer permit, or certificate of occupancy issued under the terms of this OrdinanceLocal Law shall become or remain valid unless the holder thereof complies with rules and regulations of the Tompkins County Health Department under the terms of the County Sanitary Code and any applicable New York State or federal laws, rules, or regulations. Where minimum lot sizes are specified in this OrdinanceLocal Law, the same shall be subject to the approval of the Tompkins County Health Department or any successor agency, and if such department or successor requires larger lots to comply with the County Sanitary Code, New York State laws, or federal laws, the requirements of such Department or of any State or Federal agency or successor thereto shall govern.

Section 507 - BUILDING CODE COMPLIANCE. If the requirements of the Building Code are more restrictive with respect to any matter referred to in this OrdinanceLocal Law, the provisions of the Building Code shall govern.

Section 508 - PORCHES AND CARPORTS. In determining the percent of building coverage or the size of yards, porches and carports, open on the sides but roofed, shall be considered a part of the building area for the purposes of this ordinanceLocal Law.

Section 509 - FENCES AND WALLS. The provisions of this ordinanceLocal Law shall not apply to fences or walls less than six feet above the natural grade, nor to terraces, steps, unroofed porches, or other similar features constructed within three feet of the floor level of the ground story and within three feet of the finished grade.

Section 510 - YARDS.

1. **SIDE YARD ON CORNER LOT.**
On a corner lot the minimum yard width on the side street shall be the same as the required front yard for adjoining properties on the side street.

3. **MORE THAN ONE BUILDING ON A LOT.**
When permitted by this OrdinanceLocal Law, when there is more than one principal building on a lot in any zone buildings are encouraged to be as close to each other as possible clustering the development and widely spread development is discouraged.

4. **PROJECTIONS.**
Bays, including their cornices and eaves, may extend not more than two feet into any required yard provided that the sum of the lengths of such projections in any wall shall not exceed one third the length of such wall. An open balcony or fire escape may extend not more than five feet into any required yard.

5. **PARKING.**
No vehicle parking area shall be included in any required front yard, except as set forth below and except for a lot with a one or two housing units.

Section 511 - HEIGHT. Except as otherwise authorized under the terms of this ~~Ordinance~~Local Law, no building or structure shall exceed thirty-six feet in height from lowest exterior grade or forty feet in height from lowest interior grade, whichever is the greater. This height limitation shall not apply to silos, barns, or other structures used in connection with generally recognized agricultural operations. No structure[s] to which this exception applies, however, shall exceed one hundred feet in height, or be located less than one hundred feet from any property line.

Section 512 - ACCESSORY BUILDINGS.

1. No accessory buildings shall occupy required front yard space. In addition:
 - a. Accessory buildings of 144 square feet or less must be at least 5 feet from side and rear lot lines,
 - b. Accessory buildings larger than 144 but not larger than 1000 square feet must be at least 10 feet from side and rear lot lines,
 - c. Accessory buildings larger than 1000 square feet must be at least 50 feet from side and rear lot lines
3. Notwithstanding the foregoing any building housing any noxious commodity shall be no nearer than one hundred feet from any side or rear lot line.

Section 513 - SIGNS AND BILLBOARDS.

1. No advertising sign or billboard other than those specifically permitted by this ~~ordinance~~Local Law shall be permitted in any zone.
2. If a property owner fails to comply with any of the provisions of this Section, the Town Board may issue to said property owner a notice to appear before the Board of Appeals to show cause why the Town Board should not contract privately to remove any unauthorized advertising sign or billboard in order to satisfy this Section and further, to show cause why any expense incurred by the Town Board in accomplishing the removal of an unauthorized sign or billboard should not be assessed by the Town Board against the real property of said owner. Upon a determination by the Board of Appeals that said sign or billboard must be removed in order to satisfy the requirements of this Section, the Town board shall contract for the work to be done and the expense so incurred in accomplishing such work shall be assessed by the Town Board against the real property of the property owner and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged as in the case of any other Town charge.
3. The above remedy is not intended to limit or restrict any other remedies or recourse by the town against the violators of this Section.

4. The following signs are permitted in all zones:
 - a. Signs required by law.
 - b. Official signs of any governmental agency.
 - c. Identification signs for churches, parks and playgrounds and similar uses not exceeding in the aggregate fifteen square feet in area. Any such signs shall be located within the property lines of the premises it identifies and may be illuminated but not flashing. Any signs with lights directed to the sign shall have the lights shielded as much as practicable to direct the lights only at the signs.
 - d. Temporary signs which shall not be more than fifteen square feet in area and which ~~have been approved by the Board of Appeals~~ are displayed for 30 days or less.
 - e. A sign denominating a home business, not over ten square feet in area. Any such sign shall be located within the property lines of the premises it identifies and may be illuminated but not flashing. Any signs with lights directed to the sign shall have the lights shielded as much as practicable to direct the lights only at the signs.

Section 514 - PROHIBITED USES. Any uses not specifically or implicitly permitted in a zone established by this ~~ordinance~~ Local Law are hereby specifically prohibited from the zone.

Section 515 - EXCAVATIONS, ABANDONED CONSTRUCTION AND DESTROYED BUILDINGS. ~~{2-13}~~ The following rules, in addition to any other local, state, or regulations or federal laws or regulations shall govern excavations in the Town:

1. No excavations shall remain open or uncovered for more than one year after work has ceased on a construction project or such excavation has been abandoned. Any excavation or cellar hole remaining after the demolition or destruction of a building from any cause shall be covered or filled by the owner within one year.
2. Fencing or other similar safety measures shall be provided around abandoned excavations, damaged buildings and other potentially hazardous conditions.
3. If a property owner fails to comply with any of the provisions contained herein, he or she shall be subject to the procedures and remedies available to the Town. ~~{2-13}~~

Section 516 - LIMITATION ON CHURCHES, SCHOOLS, ETC. No church, school, or other structure designed for public assembly or open to the public and authorized pursuant to a Special Permit hereafter erected in, or moved to, outside of the hamlet zones,

shall be located within one hundred feet of any property line.

Section 517 - STORMWATER REQUIREMENTS. ~~{2-10}~~The requirements of Town of Danby Local Law Number 1 of 2010, entitled “Town of Danby Stormwater Management, Erosion and Sediment Control Law” (herein the “Stormwater Local Law”) be and hereby are incorporated into this Zoning ~~Ordinance~~Local Law, and all activities in all zones listed in Article 6 hereof, and all hereafter approved Planned Development Zones, shall comply with such Stormwater Local Law and all requirements therein, including, but not limited to, the preparation and approval of SWPPPs, the obtaining of Stormwater Permits, and the design, planning, installation, construction, maintenance, and improvement of temporary and permanent Stormwater Management Practices, as each and all of such capitalized terms are defined and used within such Stormwater Local Law. Regardless of the language of this Zoning ~~Ordinance~~Local Law, no waivers pertaining to stormwater requirements may be granted by any person, body, board, or other entity unless such waiver is granted pursuant to the authority of Article 16 of such Stormwater Local Law. ~~{2-10}~~

Section ~~{2-13}~~518~~{2-13}~~ - PROHIBITION AGAINST THE EXPLORATION FOR OR EXTRACTION OF NATURAL GAS AND/OR PETROLEUM. ~~{3-11}~~ No use or operation on any land, parcel, lot, or other area located within the Town of Danby, including but not limited to within any Planned Development Zone, shall be proposed, allowed, or permitted where such use or operation involves: (i) any Natural Gas and/or Petroleum Exploration activities; (ii) storage or staging, for any length of time and whether above or below ground, any Natural Gas and/or Petroleum Exploration and Production Materials or any Natural Gas Exploration and/or Petroleum Production Wastes; or (iii) any Natural Gas and/or Petroleum Extraction activities or any Natural Gas and/or Petroleum Support Activities; or (iv) any drilling, construction, or excavating of any well to find or produce any Natural Gas or other hydrocarbons, or (v) any storage, staging, processing, or treatment areas, structures, or improvements relating to Natural Gas, petroleum, or any related hydrocarbons, Natural Gas and/or Petroleum Exploration and Production Materials, or Natural Gas Exploration and/or Petroleum Production Wastes, or (vi) any disposal of Natural Gas Exploration and/or Petroleum Production Wastes, or (vii) the erection or construction of any derrick, building, or other structure, or placement or use of any machinery or equipment, for any such purposes. The above restrictions shall not be construed to: (a) prevent or prohibit the transmission of Natural Gas or related hydrocarbons through utility pipes, lines, or related appurtenances for the limited purpose of supplying utility services to residents of the Town of Danby; (b) prevent or prohibit the siting or permitting of a Gasoline Service Station or an Automotive and Other Motorized Vehicle Repair Facility where otherwise allowed under this Zoning ~~Ordinance~~Local Law; or (c) prevent or prohibit the incidental and normal storage or use of reasonable and customary amounts of Natural Gas and other hydrocarbons in relation to any other use that is lawful under this Zoning ~~Ordinance~~Local Law, such as home heating storage facilities (e.g., propane tanks), gasoline pumps and storage tanks, and similar uses that are normally associated with allowed residential, business, commercial, and Light Industrial uses permitted pursuant to and under this Zoning ~~Ordinance~~Local Law.”

Section ~~[2-13]~~—519—~~[2-13]~~ - INVALIDITY OF OTHER GOVERNMENTAL PERMITS. No permit issued by any local, state or federal agency, commission or board shall be deemed valid within the Town of Danby when such permit purports to allow or permit a land use or operation that would violate the prohibitions, terms, requirements, or conditions of this Zoning ~~Ordinance.~~ ~~[3-11]~~Local Law.

ARTICLE VI: ZONE REGULATIONS

Section 600 - HIGH PRIORITY PRESERVATION ZONE. The High Priority Preservation Zone includes areas where development and subdivision are significantly restricted to protect the long-term rural character and natural habitat in the Town

1. **PRINCIPAL USES PERMITTED BY RIGHT**

- a. Public utility structures.
- b. Customary Agricultural Uses and structures, provided, however, that no storage of manure or any permanent use of land or buildings producing offensive odor or dust shall be permitted within 100 feet of any side or rear property line.
- c. Building-Mounted Solar Energy System ~~[7-17]~~

1. ACCESSORY USES PERMITTED BY RIGHT Accessory uses must be incidental and accessory to an allowed principal use.

- a. Home occupations provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.
- b. Private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants a dwelling on the lot.
- c. Small-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS
- d. Customary farm buildings such as barns, silos, livestock enclosures, storage buildings and similar structures.
- e. Roadside stands not in excess of four hundred square feet of interior area and selling only products produced on the same lot or produced on land within a ten-mile radius of the location of the stand.

2. PRINCIPAL USES ONLY PERMITTED BY SITE PLAN REVIEW

- a. Single dwelling unit
- b. Cemeteries.
- c. Private playground, athletic field and group swimming pools.
- d. Tourist homes.
- e. Customary home occupations and professional residential offices where external visible evidence of same exists on the site.

f. Cottage industry See: Section 903

3. ACCESSORY USES PERMITTED ONLY BY SITE PLAN REVIEW. Accessory uses must be incidental and accessory to an allowed principal use.

a. Private garage, workshop, or residential storage building totaling less than or equal to 1200 square feet per lot. Garages attached to the principal building are not limited by this section.

b. Home occupations in new building(s) provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.

~~b. Home occupations provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.~~

~~c. Private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants a dwelling on the lot.~~

~~d. Small Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 SOLAR ENERGY SYSTEMS [7-17]~~

~~e. Customary farm buildings such as barns, silos, livestock enclosures, storage buildings and similar structures.~~

~~f. Roadside stands not in excess of four hundred square feet of interior area and selling only products produced on the same lot or produced on land~~

~~within a ten-mile radius of the location of the stand.~~

4. NUMBER OF LOTS ALLOWED ~~[1-05]~~

- a. On any parcel as it existed on the effective date of this amendment to this ~~ordinance~~Local Law (December XX, 2021), there shall be permitted no more than one (1) lot created for every twenty-five (25) acres of land.
- b. For purposes of calculating the number of lots allowed, in no case shall the number of lots allowed exceed the average density that could be obtained using the required lot area provided in Article VI, Section 600 of the Zoning ~~Ordinance~~Local Law of the Town of Danby.
- c. The limitations of this section shall apply to parcels of land existing on the effective date of this amendment to this ~~ordinance~~Local Law (December XX, 2021). Any subsequent owner or owners of any such parcel of land (I.E., THE PARENT PARCEL) shall be bound by the actions of previous owners in that such subsequent owner or owners may only create the number of lots that may remain of the original number allowed under this section.
- d. Further subdivision of any parcel created after the effective date of this amendment to this ~~ordinance~~Local Law (December XX, 2021) shall be prohibited unless all or part of the remaining subdivision rights of the original (PARENT) parcel are specifically transferred to the newly created lot. Written notice of any such transfer shall be submitted as part of the Final Subdivision Plat, and shall be recorded on the plat.

5. REQUIRED LOT AREA. Except when approved as a Clustered Subdivision, lot area shall be not less than 25 acres.

6. YARDS. Except as hereinafter provided, minimum yard size shall be:

- a. Minimum front yard depth – one hundred feet.
- b. Minimum side yard width - one hundred feet.
- c. Minimum rear yard depth one hundred feet.
- d. Minimum setback between existing homes and primary buildings in new cluster subdivisions. – one thousand feet

7. SIGNS. In addition to the previously mentioned signs, the following signs shall be permitted:

- a. Signs required by law.

- b. Official signs of any governmental agency.
 - c. Identification signs for churches, parks and playgrounds and similar uses not exceeding in the aggregate fifteen square feet in area. Any such signs shall be located within the property lines of the premises it identifies and may be illuminated but not flashing. Any signs with lights directed to the sign shall have the lights shielded as much as practicable to direct the lights only at the signs.
 - d. Temporary signs which shall not be more than fifteen square feet in area and which ~~have been approved by the Board of Appeals~~ shall not be displayed for more than 30 days in a year.
8. HEIGHT. See Section 511
9. IMPERVIOUS AREA. The maximum Impervious Area shall not exceed one percent of the Lot Area or one acre, whichever is less.

Section 601 – RURAL 1 ZONE. The purpose of the Rural 1 Zone is to protect parts of the Town that include more sensitive open space resources including but not limited to steep slopes, Unique Natural Areas, wetlands, forests, significant contiguous habitat areas and viewsheds. Any new development in this Zone is intended to be limited. Such development requires additional review with careful consideration to preserving these characteristics and features and the long-term rural character and natural habitat of the Town

1. PRINCIPAL USES PERMITTED BY RIGHT.
- a. Public utility structures.
 - b. Customary Agricultural Uses and structures, including roadside stands not exceeding 400 square feet, provided, however, that no storage of manure or any permanent use of land or buildings producing offensive odor or dust shall be permitted within 25 feet of any side or rear property line.
3. ACCESSORY USES PERMITTED BY RIGHT. Accessory uses must be incidental and accessory to an allowed principal use.
- a. Home occupations in existing building(s) provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.
 - c. Private garage, workshop, or residential storage building(s) 400 square feet

or less in total area per lot.

- d. Private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of a dwelling on the lot.
- e. Building-Mounted Solar Energy System
- f. Small-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS
- g. Customary farm buildings such as barns, silos, livestock enclosures, storage buildings and similar structures for agricultural use.
- h. Roadside stands not in excess of four hundred square feet of interior area and selling only products produced on the same lot or produced on land within a ten-mile radius of the location of the stand.

2. PRINCIPAL USES PERMITTED BY SITE PLAN REVIEW ONLY.

- a. One dwelling unit.
- b. Churches and similar religious institutions.
- c. Hospitals.
- d. Public schools, parks and playgrounds.
- e. Public library.
- f. Nursery schools, group family day care homes, and day care centers.
- g. Municipal buildings and structures.
- h. Cemeteries.
- i. Private playground, athletic field and group swimming pools.
- j. Tourist homes.
- k. Customary home occupations and professional residential offices where external visible evidence of same exists on the site.
- l. Private Airplane Landing Field.

m. Cottage industry See: Section 903

3. PERMITTED ACCESSORY USES BY SITE PLAN REVIEW ONLY. Accessory uses must be incidental and accessory to an allowed principal use.

a. Private garage, workshop, or residential storage building(s) totaling more than 400 square feet but less than or equal to 1200 square feet per lot. Garages attached to the principal building are not limited by this section.

~~b. Home occupations provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.~~

~~c. One residential storage building per lot not to exceed 400 square feet in total area.~~

~~d. Private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of a dwelling on the lot.~~

~~e. Building Mounted Solar Energy System [7-17]~~

~~f. Small Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 SOLAR ENERGY SYSTEMS [7-17]~~

~~g. Customary farm buildings such as barns, silos, livestock enclosures, storage buildings and similar structures.~~

~~h. Roadside stands not in excess of four hundred square feet of interior area and selling only products produced on the same lot or produced on land within a ten-mile radius of the location of the stand.~~

b. Home occupations in new building(s) provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.

4. NUMBER OF LOTS ALLOWED ~~[1-05]~~

a. On any parcel as it existed on the effective date of this amendment to this ~~ordinance~~Local Law (December xx, 2021), there shall be permitted no more than one (1) lot created for every ten (10) acres of land.

- b. The limitations of this section shall apply to parcels of land existing on the effective date of this amendment to this ~~ordinance~~Local Law (December xx, 2021). Any subsequent owner or owners of any such parcel of land (I.E., THE PARENT PARCEL) shall be bound by the actions of previous owners in that such subsequent owner or owners may only create the number of lots that may remain of the original number allowed under this section.
 - c. Further subdivision of any parcel created after the effective date of this amendment to this ~~ordinance~~Local Law (December xx, 2021) shall be prohibited unless all or part of the remaining subdivision rights of the original (PARENT) parcel are specifically transferred to the newly created lot. Written notice of any such transfer shall be submitted as part of the Final Subdivision Plat, and shall be recorded on the plat.
5. REQUIRED LOT AREA. Except when approved as a Clustered Subdivision, lot area shall be not less than ten acres and a lot depth of not less than eight hundred feet ~~[1-05]~~
6. YARDS. Except as hereinafter provided, minimum yard size shall be:
- a. Minimum front yard depth – twenty feet.
 - b. Minimum side yard width - fifty feet.
 - d. Minimum rear yard depth - fifty feet.
 - e. Minimum setback between existing homes and primary buildings in new cluster subdivisions. - 600 feet.
7. SIGNS. In addition to the previously mentioned signs, the following signs shall be permitted:
- a. Signs required by law.
 - b. Official signs of any governmental agency.
 - c. Identification signs for churches, parks and playgrounds and similar uses not exceeding in the aggregate fifteen square feet in area. Any such signs shall be located within the property lines of the premises it identifies and may be illuminated but not flashing. Any signs with lights directed to the sign shall have the lights shielded as much as practicable to direct the lights only at the signs.
 - d. Temporary signs which shall not be more than fifteen square feet in area and which ~~have been approved by the Board of Appeals~~shall not be

displayed for more than 30 days in a year.

8. HEIGHT. See Section 511
9. IMPERVIOUS AREA. The maximum Impervious Area shall not exceed twenty-five percent of the Lot Area or one acre, whichever is smaller.
10. USES PERMITTED BY ~~SITE PLAN REVIEW~~ SPECIAL PERMIT ONLY:
 - a. Solar Energy Facility, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS and § 808 – SOLAR ENERGY FACILITIES ~~[7-17]~~
 - b. Large-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS ~~[7-17]~~

Section 602 – RURAL 2 ZONE.

The purpose of the Rural 2 Zone is to protect parts of the Town where agriculture, open space, forests, and natural habitat are the preferred uses and ~~for~~where the orderly development of large lot residential and some commercial uses is considered to be reasonable and in keeping with the rural character of the area.

1. PRINCIPAL USES PERMITTED BY RIGHT.
 - a. One dwelling unit, or one building with two dwelling units.
 - b. Public utility structures.
 - c. Customary Agricultural Uses and structures, including roadside stands not exceeding 400 square feet, provided, however, that no storage of manure or any permanent use of land or buildings producing offensive odor or dust shall be permitted within 25 feet of any side or rear property line.
2. ACCESSORY USES PERMITTED BY RIGHT.
 - a. Private garage, workshop, or residential storage building(s) totaling less than or equal to 1200 square feet per lot. Garages attached to the principal building are not limited by this section.
 - b. Home occupations provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.

- e. ~~One residential storage building per lot not to exceed 400 square feet in total area.~~
 - d. Private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of a dwelling on the lot.
 - e. Building-Mounted Solar Energy System ~~{7-17}~~
 - f. Small-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS ~~{7-17}~~
 - g. Customary farm buildings such as barns, silos, livestock enclosures, storage buildings and similar structures.
 - h. Roadside stands not in excess of four hundred square feet of interior area and selling only products produced on the same lot or produced on land within a ten-mile radius of the location of the stand.
3. PRINCIPAL USES ONLY PERMITTED BY ~~SPECIAL PERMIT~~ SITE PLAN REVIEW.
- a. Churches and similar religious institutions.
 - b. Hospitals.
 - c. Public schools, parks and playgrounds.
 - d. Public library.
 - e. Nursery schools, group family day care homes, and day care centers.
 - f. Municipal buildings and structures.
 - g. Cemeteries.
 - h. Private playground, athletic field and group swimming pools.
 - i. Tourist homes.
 - j. Customary home occupations and professional residential offices where external visible evidence of same exists on the site.
 - k. Private Airplane Landing Field.
 - l. Replacement of a preexisting singlewide mobile home which is the second

dwelling on a lot, with a newer manufactured home.

~~m. Installation of a second dwelling unit on a lot in a separate building for temporary or permanent occupancy.~~

~~n. Cottage industry See: Section 903~~

~~n.o.~~ Multi-unit dwelling permitted using development rights through cluster subdivision process.

4. NUMBER OF LOTS ALLOWED ~~[1-05]~~

a. On any parcel as it existed on the effective date of this amendment to this ~~ordinance~~Local Law (December xx, 2021), there shall be permitted no more than one (1) lot created for every ten (10) acres of land.

b. The limitations of this section shall apply to parcels of land existing on the effective date of this amendment to this ~~ordinance~~Local Law (December xx, 2021). Any subsequent owner or owners of any such parcel of land (I.E., THE PARENT PARCEL) shall be bound by the actions of previous owners in that such subsequent owner or owners may only create the number of lots that may remain of the original number allowed under this section.

c. Further subdivision of any parcel created after the effective date of this amendment to this ~~ordinance~~Local Law (December xx, 2021) shall be prohibited unless all or part of the remaining subdivision rights of the original (PARENT) parcel are specifically transferred to the newly created lot. Written notice of any such transfer shall be submitted as part of the Final Subdivision Plat, and shall be recorded on the plat.

5. REQUIRED LOT AREA. Except when approved as a Clustered Subdivision, lot area shall be not less than ten acres and a lot depth of not less than six hundred feet ~~[1-05]~~.

6. YARDS. Except as hereinafter provided, minimum yard size shall be:

a. Minimum front yard depth - twenty feet.

b. Minimum side yard width - fifty feet.

c. Minimum rear yard depth - fifty feet.

d. Minimum setback between existing homes and primary buildings in new cluster subdivisions. – 300 feet

7. SIGNS. In addition to the previously mentioned signs, the following signs shall be

permitted:

- a. Signs required by law.
 - b. Official signs of any governmental agency.
 - c. Identification signs for churches, parks and playgrounds and similar uses not exceeding in the aggregate fifteen square feet in area. Any such signs shall be located within the property lines of the premises it identifies and may be illuminated but not flashing. Any signs with lights directed to the sign shall have the lights shielded as much as practicable to direct the lights only at the signs.
 - d. Temporary signs which shall not be more than fifteen square feet in area and which ~~have been approved by the Board of Appeals~~ are displayed for 30 days or less.
8. HEIGHT. See Section 511
 9. IMPERVIOUS AREA. The maximum Impervious Area shall not exceed twenty-five percent of the Lot Area, or one acre, whichever is smaller.
 10. USES PERMITTED BY SITE PLAN REVIEW ONLY:
 - a. Solar Energy Facility, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS and § 808 – SOLAR ENERGY FACILITIES ~~[7-17]~~
 - b. Large-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS ~~[7-17]~~

Section 603 - LOW DENSITY RESIDENTIAL ZONE. The purpose of the Low Density Residential Zone is to provide an area of limited development where it is deemed most desirable in the Town to maintain larger lots for development and permit the possibility of continued agricultural use of the areas without limiting the areas to solely agricultural uses.

1. PRINCIPAL USES PERMITTED BY RIGHT
 - a. One dwelling unit or one building with up to two dwelling units.
 - b. Public utility structures.
 - c. Customary Agricultural Uses and structures, including roadside stands not exceeding 400 square feet, provided, however, that no storage of manure or any permanent use of land or buildings producing offensive odor or dust

shall be permitted within 25 feet of any side or rear property line.

2. ACCESSORY USES PERMITTED BY RIGHT.

- a. Private garage, workshop, or residential storage building(s) totaling less than or equal to 1200 square feet per lot. Garages attached to the principal building are not limited by this section.
- b. Home occupations provided that there shall be no external evidence of such activity on the site except a sign denominating such occupation not over ten square feet in area. Any such sign shall be nonflashing and, if illuminated, shall be shielded as much as possible from adjacent residences.
- ~~c. One residential storage building per lot not to exceed 400 square feet in total area.~~
- ~~dc.~~ Private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of a dwelling on the lot.
- ~~ed.~~ Building-Mounted Solar Energy System ~~[7-17]~~
- ~~fe.~~ Small-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS ~~[7-17]~~
- ~~gf.~~ Customary farm buildings such as barns, silos, livestock enclosures, storage buildings and similar structures.
- ~~hg.~~ Roadside stands not in excess of four hundred square feet of interior area and selling only products produced on the same lot or produced on land within a ten-mile radius of the location of the stand.

3. USES PERMITTED BY ~~SPECIAL PERMIT~~ SITE PLAN REVIEW ONLY.

- a. Churches and similar religious institutions.
- b. Hospitals.
- c. Public schools, parks and playgrounds.
- d. Public library.
- e. Nursery schools, group family day care homes, and day care centers.
- f. Municipal buildings and structures.

- g. Cemeteries.
- h. Private playground, athletic field and group swimming pools.
- i. Tourist homes.
- j. Customary home occupations and professional residential offices where external visible evidence of same exists on the site.
- k. Private Airplane Landing Field.
- l. Replacement of a preexisting singlewide mobile home which is the second dwelling on a lot, with a newer manufactured home.
- m. Installation of a second dwelling unit on a lot in a separate building for temporary or permanent occupancy.

n. Cottage industry See: Section 903

4. NUMBER OF LOTS ALLOWED ~~[1-05]~~

- a. On any parcel as it existed on the effective date of this amendment to this ~~ordinance~~Local Law (June 20, 2005), there shall be permitted no more than one (1) lot created for every five (5) acres of land or per 200 feet of road frontage whichever results in the greater number of lots, ~~provided that the road frontage, for this purpose, is located on a public road maintained year-round.~~
- b. For purposes of calculating the number of lots allowed, in no case shall the number of lots allowed exceed the average density that could be obtained using the required lot area provided in Article VI, Section 603 of the Zoning ~~Ordinance~~Local Law of the Town of Danby.
- c. The limitations of this section shall apply to parcels of land existing on the effective date of this amendment to ~~this~~the Zoning Ordinance (June 20, 2005). Any subsequent owner or owners of any such parcel of land (I.E., THE PARENT PARCEL) shall be bound by the actions of previous owners in that such subsequent owner or owners may only create the number of lots that may remain of the original number allowed under this section.
- d. Further subdivision of any parcel created after the effective date of this amendment to ~~this~~the ordinance (June 20, 2005) shall be prohibited unless all or part of the remaining subdivision rights of the original (PARENT) parcel are specifically transferred to the newly created lot. Written notice of any such transfer shall be submitted as part of the Final Subdivision Plat, and shall be recorded on the plat.

5. REQUIRED LOT AREA. Except when approved as a Clustered Subdivision, lot area shall be not less than two acres with frontage of not less than two hundred feet, and a lot depth of not less than three hundred feet ~~{1-05}~~
6. YARDS. Except as hereinafter provided, minimum yard size shall be:
 - a. Minimum front yard depth - fifty feet.
 - b. Minimum side yard width - fifty feet.
 - c. Minimum rear yard depth - seventy-five feet
 - d. Minimum setback between existing homes and primary buildings in new cluster subdivisions. – 200 feet
7. SIGNS. In addition to the previously mentioned signs, the following signs shall be permitted:
 - a. Signs required by law.
 - b. Official signs of any governmental agency.
 - c. Identification signs for churches, parks and playgrounds and similar uses not exceeding in the aggregate fifteen square feet in area. Any such signs shall be located within the property lines of the premises it identifies and may be illuminated but not flashing. Any signs with lights directed to the sign shall have the lights shielded as much as practicable to direct the lights only at the signs.
 - d. Temporary signs which shall not be more than fifteen square feet in area and which ~~have been approved by the Board of Appeals~~ are displayed for 30 days or less.
8. HEIGHT. See Section 511.
9. IMPERVIOUS AREA. The maximum Impervious Area shall not exceed twenty-five percent of the Lot Area, or one acre, whichever is smaller.
10. USES PERMITTED BY SITE PLAN REVIEW ONLY:
 - a. Solar Energy Facility, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS and § 808 – SOLAR ENERGY FACILITIES ~~{7-17}~~

- b. Large-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS ~~{7-17}~~

Section 604 HAMLET NEIGHBORHOOD ZONE – The Hamlet Neighborhood Zone is intended to allow the development of a predominantly residential neighborhood adjacent to the Hamlet Core. The Hamlet Neighborhood Zone encourages a mix of housing types and lot sizes with the goal of building out a neighborhood where people of all ages can safely walk and where there are housing options for all incomes and household types.

1. Lot Size – There will be no minimum lot size in the Hamlet Neighborhood Zone except that all subdivisions and building permit applications must have a plan approved by the Tompkins County Health Department for the provision of water and waste-water. Lots are encouraged to be as small as possible to efficiently use limited land in the Hamlet.

2. PRINCIPAL USES PERMITTED BY RIGHT

In the HN—Hamlet Neighborhood, no building or structure shall be erected, altered or extended, and no land or building thereon shall be used for any purpose or purposes other than the following:

- a. Residential use with 1-4 dwelling units and customary accessory structures.
- b. Agriculture

3. ACCESSORY USES PERMITTED BY RIGHT.

Such necessary uses as are customarily incidental to permitted principal uses:

- a. Accessory ~~building structure related to business use (dumpster enclosure, storage for business; use up to 400sqft, covered bicycle parking, covered seating area, etc.).~~
- b. Bed-and-breakfast establishments.
- c. Family child care.
- d. Family adult care.
- e. Home occupations.
- f. Professional offices, where such office is part of the residence property and no more than five persons not residing on the premises are employed.
- g. Vehicle parking. Parking is not permitted between the facade of a principal building and the street; all parking must be located to the side or preferably behind principal buildings. For parcels with multiple principal buildings parking lots should be on the interior of the lot and should be buffered from the street by street facing buildings.
- h. Agriculture

4. PRINCIPAL USES PERMITTED ONLY BY SITE PLAN APPROVAL.

The following uses are allowed upon approval of a site plan by the Planning Board

subject to adopted design guidelines.

- a. Community centers.
- b. Child-care centers, group child care.
- c. Fire stations and other public buildings necessary for the protection or servicing of a neighborhood.
- d. Libraries, museums.
- e. Multiple-dwelling unit Residential 5+ units
- f. Public and private schools, nursery schools and institutions of higher education.
- g. Public and privately owned but publicly accessible community parks and preserves.
- h. Residential care/assisted living/rehabilitation facilities.

5. PRINCIPAL USES PERMITTED ONLY BY SITE PLAN APPROVAL AND ONLY ALLOWED ON CORNER LOTS.

- a. Churches, mosques, synagogues, temples and other places of worship, convents, rectories, parish houses.
- b. Restaurants, bars and other places for serving food and beverages, and provided that there is no drive-through window.
- c. Repair Shop, Personal services, Cottage industry See: Section 903 provided the establishment does not exceed 3,000 gross square feet in floor area, with the exception of basement storage areas
- d. Retail use, provided the establishment does not exceed 3,000 gross square feet in floor area, with the exception of basement storage areas, and provided that there is no drive-through window.

6. Setbacks –

Front Yard – Minimum 10ft and 20ft Maximum measured from top of roadside ditch or the road edge in cases where there is not a ditch. ~~Front yards~~The Planning Board may be deeper~~grant a waiver from the 20ft maximum during site plan review to accommodate~~enable amenities that improve the hamlet (including courtyards, gardens, greens, plazas, but not including parking lots or un-programed lawn)~~with the approval of the Planning Board.~~ The Planning Board should consider the impact on the form of the Hamlet and the need for a stronger street wall in creating a public realm in the review of deeper front yard setbacks.

Side Yard – 10ft minimum.

Rear Yard – 60ft minimum

7. Multiple Primary Uses and Buildings

Lots in the Hamlet Neighborhood Zone are allowed to have multiple buildings with a mix of allowed principal uses.

8. Form requirements.

- a. All principal buildings must include a principal entrance facing the street ~~unless~~unless, if on a

side wall, located near the front of the building and making use of architectural elements, walks, and landscaping that indicate a prominent pedestrian access and providing a human scale face to the building from the street. Alternatively, the planning board grants special permission may grant a waiver during Site Plan Review for entrances facing a publicly accessible green-space, plaza, or pedestrian pathway (conventional parking lots will not be considered as an alternative). Generally, lots with multiple principal buildings should have buildings along the street that provide street facing entries while other buildings may face interior lot features as described above.

- a. Primary entrances must be architecturally detailed incorporating a porch, stoop, or lightwell for single-dwelling unit homes and porch, stoop, lightwell, canopy, awning or marquis entries for all other principal buildings.
- b. New buildings and any new lots should be designed so that buildings fill a minimum of 40% of the lot width in the Hamlet Neighborhood.
- c. Buildings including commercial uses must include transparent windows with a view to the building interior covering least 50% of any street facing facade area between 3 feet and 8 feet above grade.
- d. New multi-unit residential and non-residential buildings on lots larger than 10,000 square feet must include at least one entry facing the street for every 60 feet of frontage. In the event that this is not possible due to lot size relative to building size, the site design should include the possibility of future infill consistent with this standard.
- e. New principal buildings must include either peaked roof of at least 8/12 pitch, architectural brackets at least every 4' supporting a roof of less than 8/12 pitch, a Greek-Revival full entablature with dental molding, cornice and other period correct details, or an architectural cornice facing the street.
- f. New buildings may not have blank walls longer than 30 feet facing any street between 3 feet and 8 feet above grade.
- g. Corner lots are required to have a building as close to the corner as practical, with the principal entrance facing one or both streets.
- h. Height - See Section 511

9. Architecture requirements.

All new buildings over 1500sqft in the Hamlet Neighborhood Zone (including residential buildings) must comply with the Building Design section of the Town of Danby Commercial Design Guidelines. There is no architectural design review for buildings less than 1500sqft, however the Town Planner is available for consultation on design that will be a long-term asset to the neighborhood. Architectural review with the Town Planner will accelerate Planning Board review and allow application placement at the beginning of Planning Board Agendas.

10. Landscaping requirements.

- a. All new buildings, or renovations of over 50% of the building value, must have an average of 1 front yard tree for every 30ft of road frontage. Trees installed to meet this requirement must be at least 3” DBH at time of installation and must be maintained in good health. Planting is exempt when existing above or below grade utilities prevent planting of front yard trees, or if the existing design of the street and buildings will not accommodate tree planting in the front yard.
- b. Any tree of 8” DBH or more that is removed must be replaced with 2 trees with a 2” or greater DBH, replacement trees can be installed on site or on publicly owned or accessible park land in a location approved by the Planning Board.
- c. If there are fewer than 8 required trees, they may all be the same species. If there are between 8 and 24 required trees, no more than 40 percent can be of one species. If there are more than 24 required trees, no more than 24 percent can be of one species.
- d. To the maximum extent possible, stormwater treatment should include Low Impact Development (LID) practices and should feature the movement of water on the site, and maximize retention and infiltration as a component of the site design rather than hiding stormwater in pipes.
- e. In new developments of 10 or more residential units, installation and maintenance of trees in the rear yard is required with the same minimum frequency as required for trees in the front yard.

11. Signs. In the Hamlet Neighborhood Zone the following signs are permitted:

- a. Any sign required by law;
- b. Official signs required by a governmental agency or utility, provided such sign does not exceed 24 square feet in area;
- c. A maximum of one under-awning sign of 4 (four) square feet is permitted per establishment with a ground-floor main entrance. An under-awning sign must be securely fixed to the underside of the awning with metal attachments, may not project beyond the awning, and may not be illuminated.
- d. A maximum of one porch sign is permitted per establishment per right-of-way frontage, and is limited to 8 (eight) square feet in sign area.
- e. A maximum of one wall sign is permitted per establishment per right-of-way frontage, and is limited to 80% of the facade width and projection from wall is limited to 2 (two) feet.
- f. No wall sign may extend above the window sills of the second story, unless the establishment extends to the second story or above. No portion of a wall sign may extend above the roofline or parapet wall, or, in the case of a wall sign attached to an appurtenance, the highest point of the appurtenance.
- g. Window signs that cover less than 10% of the window area.
- h. Temporary signs which shall not be more than fifteen square feet in area and which are displayed for 30 days or less.

Section 605– HAMLET CENTER ZONE – The Hamlet Center Zone is intended to allow the incremental infill and extension of the Hamlet Core as a walkable,

mixed-use, neighborhood center where local business is supported and new development creates a sense of community.

1. Lot Size – There will be no minimum lot size in the Hamlet Center Zone except that all subdivisions must have a plan approved by the Tompkins County Health Department for the provision of water and waste-water.

2. Permitted uses.

In the HC—Hamlet Center, no building or structure shall be erected, altered or extended, and no land or building thereof shall be used for any purpose or purposes other than the following:

- a. Residential use with 1-4 dwelling units and customary accessory structures.
- b. Retail use, provided the establishment does not exceed 2,000 gross square feet in floor area, with the exception of basement storage areas, and provided that there is no drive-through window and design guidelines are followed.

3. Permitted accessory uses.

Such necessary uses as are customarily incidental to the above uses:

- a. Accessory building for business.
- b. Bed-and-breakfast establishments.
- c. Family child care.
- d. Family adult care.
- e. Home occupations.
- f. Off-street loading areas.
- g. Professional offices, where such office is part of ~~the~~ residence ~~property~~ and no more than five persons not residing on the premises are employed.
- h. Vehicle parking. Parking is not permitted between the facade of a principal building and the street except in the case of on-street parallel, or on-street angled parking; all parking lots must be located to the side or preferably behind principal buildings.

4. Uses permitted by site plan approval.

The following uses are allowed upon approval of a site plan by the Planning Board subject to adopted design guidelines.

- a. Adult care centers.
- b. Adult group care.
- c. Banks and other financial institutions, provided that there is no drive-through window.
- d. Child-care centers, group child care.
- e. Churches, mosques, synagogues, temples and other places of worship, convents, rectories, parish houses.
- f. Clinics.
- g. Community centers.
- h. Fire stations and other public buildings necessary for the protection or servicing of a neighborhood.
- i. Clubhouse, hall, post, temple and other facilities associated with the activities of social organizations, except that the on-premises sale of alcoholic beverages is prohibited.
- j. Funeral homes.
- k. Gasoline and other retail vehicle fuel sales, subject to design guidelines and subject to the requirement that no gasoline or other retail vehicle fuel sales business locate within 1 mile of any existing gasoline or other retail vehicle fuel sales business.
- l. Inn.
- m. Libraries, museums.
- n. Life-care facilities.
- o. Multiple-unit Residential 5+ units
- p. Outdoor dining facilities, excluding any permanent structures within any required setback areas.
- q. Places of amusement, such as theatres, including bowling alleys, game arcades, and skating rinks.
- r. Professional offices.

- s. Public and private schools, nursery schools and institutions of higher education.
- t. Public and private community parks and preserves.
- u. Residential care/assisted living/rehabilitation facilities.
- v. Restaurants, bars and other places for serving food and beverages, and provided that there is no drive-through window.
- w. Repair Shop, Personal services, Cottage industry See: Section 903 provided the establishment does not exceed 6,000 gross square feet in floor area, with the exception of basement storage areas
- x. Retail use, provided the establishment does not exceed 6,000 gross square feet in floor area, with the exception of basement storage areas, and provided that there is no drive-through window.

4. Setbacks –

- a. Front Yard – Minimum 10ft and 20ft Maximum measured from top of roadside ditch farthest from the road or the ~~road~~-edge of pavement in cases where there is not a ditch. Front yards may be deeper to accommodate amenities that improve the hamlet (including courtyards, gardens, greens, plazas, but not including parking lots or un-programed lawn) with the approval of the Planning Board. The Planning Board should consider the impact on the form of the Hamlet and the need for a stronger street wall in creating a public realm in their review of deeper front yard setbacks.
- b. Side Yard – 10ft minimum.
- c. Rear Yard – 30ft minimum

5. Multiple Principal Uses and Buildings

Lots in the Hamlet Center Zone are allowed to have multiple buildings with a mix of allowed principal uses.

6. Form requirements.

The following form requirements apply to all new buildings in this zone, existing buildings should not be modified in ways that increase non-conformity with these requirements.

- a. All principal buildings must include a principal entrance facing the street unless or, if on a side wall, located near the front of the building and making use of architectural elements, walks, and landscaping that indicate a prominent pedestrian access and providing a human scale face to the building from the street. Alternatively, the planning board grants may grant a waiver during Site Plan Review for entrances facing a publicly accessible green-space, plaza, or pedestrian pathway (conventional parking lots will not be considered as an alternative)). Generally, lots with multiple principal buildings should have

buildings along the street that provide street facing entries while other buildings may face interior lot features as described above.

- b. Primary entrances must be architecturally detailed incorporating a porch, stoop, or lightwell for single-dwelling unit homes and porch, stoop, lightwell, canopy, awning or marquis entries for all other principal buildings.
- c. New buildings and any new lots should be designed so that buildings can fill a minimum of 60% of the lot width when fully built out in the Hamlet Center.
- d. New buildings including commercial uses must include transparent windows with a view to the building interior covering least 50% of any street facing facade area between 3 feet and 8 feet above grade.
- e. New multi-unit residential and non-residential buildings on lots larger than 10,000 square feet must include at least one entry facing the street for every 60 feet of frontage. In the event that this is not possible due to lot size relative to building size, the site design should include the possibility of future infill consistent with this standard.
- f. New buildings must include either peaked roofs, architectural brackets supporting a flat roof or an architectural cornice facing the street.
- g. New buildings may not have blank walls longer than 30 feet facing any street between 3 feet and 8 feet above grade.
- h. New buildings on corner lots must be sited as close to the corner as practical.
- i. Height - See Section 511

7. Landscaping requirements.

- a. All new buildings or renovations of over 50% of the building value must have an average of 1 front yard tree for every 30ft of road frontage. Trees installed to meet this requirement must be at least 3" DBH at time of installation and must be maintained in good health. Planting is exempt when existing above or below grade utilities prevent planting of street trees, or if the existing design of the street will not accommodate street tree planting
- b. Any tree of 8" DBH or more that is removed must be replaced with 2 trees with a 2" or greater DBH, replacement trees can be installed on site or on publicly owned or accessible park land in a location approved by the Planning Board.
- c. If there are fewer than 8 required trees, they may all be the same species. If there are between 8 and 24 required trees, no more than 40 percent can be of one species. If there are more than 24 required trees, no more than 24 percent can be of one species.

- d. To the maximum extent possible, stormwater treatment should include Low Impact Development (LID) practices and should feature the movement of water on the site, and maximize retention and infiltration as a component of the site design rather than hiding stormwater in pipes.

8. Signs in the Hamlet Center Zone. In the HC—Hamlet Center Zone the following signs are permitted:

- a. Any sign required by law;
- b. Official signs required by a governmental agency or utility, provided such sign does not exceed 24 square feet in area;
- c. A maximum of one under-awning sign of 4 (four) square feet is permitted per establishment with a ground-floor main entrance. An under-awning sign must be securely fixed to the underside of the awning with metal attachments, may not project beyond the awning, and may not be illuminated.
- d. A maximum of one porch sign is permitted per establishment per right-of-way frontage, and is limited to 8 (eight) square feet in sign area.
- e. A maximum of one wall sign is permitted per establishment per right-of-way frontage, and is limited to 80% of the facade width and projection from wall is limited to 2 (two) feet.
- f. No wall sign may extend above the window sills of the second story, unless the establishment extends to the second story or above. No portion of a wall sign may extend above the roofline or parapet wall, or, in the case of a wall sign attached to an appurtenance, the highest point of the appurtenance.
- g. Window signs that cover less than 10% of the window area.
- h. Temporary signs which shall not be more than fifteen square feet in area and which are displayed for 30 days or less.

Section 606 – COMMERCIAL ZONES. The purpose of establishing the commercial zones and the following regulations is to establish certain areas where retail business and other commercial uses of land will be encouraged and to establish standards by which development in these areas shall occur.

2. COMMERCIAL ZONE "A".

- a. PURPOSE. The purpose of establishing a Commercial Zone "A" is to provide an area, usually adjacent to a residential zone, where commercial activities involving a low impact in respect to traffic, noise, intensity of use, and low overall impact on the neighborhood will be permitted.

b. _____

~~**Section 605 – PLANNED DEVELOPMENT ZONES.** [3-11]PERMITTED PRINCIPAL USES IN A COMMERCIAL ZONE "A". All permitted principal uses that are explicitly permitted in Low Density Residential~~

Zones without requiring SITE PLAN REVIEW are explicitly permitted in a Commercial Zone "A".

c. PERMITTED USES IN A COMMERCIAL ZONE "A" UPON APPROVAL OF THE SITE PLAN. The following uses are permitted upon approval of the site plan by the Planning Board:

i) Retail food store not larger than 10,000 square feet of building area. (Retail food store does not include restaurants.)

ii) Business offices or professional offices.

iii) Bank or other financial institution.

iv) Book store not larger than 5,000 square feet.

v) Drug store not larger than 5,000 square feet.

vi) Hardware store not larger than 5,000 square feet.

vii) Retail service store such as a barber shop, beauty parlor, florist shop, tailor shop, and any other similar retail store, all of which shall be not larger than 5,000 square feet of building area.

viii) Horticultural nurseries.

ix) Large-Scale Solar Energy System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS

x) Gasoline service station.

xi) Public schools.

xii) Child nursery or day care centers, and private schools including commercially oriented schools such as dancing, art, and business schools.

xiii) Churches and similar religious institutions.

xiv) Community centers.

xv) Tourist homes containing no more than ten beds.

xvi) Package liquor store not larger than 5,000 square feet.

xvii) Cottage industry See: Section 903

xviii) Cottage industry See: Section 903 with accessory wholesale or retail sales of products produced at the cottage industry and similar products produced off-site, with or without outside display on the premises of any such products, in accordance with the provisions contained elsewhere in this Zoning Local Law.

xix) Residential use with more than 2 dwelling units on a lot.

3. COMMERCIAL ZONE "B".

a. PURPOSE. The purpose of establishing a Commercial Zone "B" is to provide an area where commercial activities involving a moderate impact, including moderate traffic, noise, and similar impacts, to a neighborhood will be permitted.

b. PERMITTED PRINCIPAL USES IN A COMMERCIAL ZONE "B". All permitted principal uses that are explicitly permitted in a Commercial Zone "A" without site plan approval are permitted in a Commercial Zone "B".

c. PERMITTED USES IN A COMMERCIAL ZONE "B" UPON APPROVAL OF THE SITE PLAN. The following uses are permitted upon approval of the site plan by the Planning Board:

i) Any of the uses permitted upon approval of the site plan in Commercial Zone "A".

ii) Retail food stores with more than 10,000 square feet of building area.

iii) Bookstores, drugstores, hardware stores, and of more than 5,000 square feet of building area.

iv) Retail service stores such as barber shops, beauty parlors, florists, tailors, and any other similar retail stores of more than 5,000 square feet.

v) Laundromats and dry-cleaning facilities.

vi) Funeral homes and mortuaries.

vii) Motor vehicle sales facilities.

viii) Restaurants, including fast food restaurants.

- ix) Indoor recreational facilities such as skating rinks, bowling alleys, etc.
- x) Clubs and fraternal organization facilities.
- xi) Utility facilities including substations, transmission facilities, etc. but not including transmission facilities involving antennae or other items whose height exceed the maximum permissible height set forth elsewhere in this Local Law.
- xii) Tourist homes with more than ten beds.
- xiii) Package liquor stores larger than 5,000 square feet.
- xiv) Taverns

4. COMMERCIAL ZONE "C".

- a. PURPOSE. The purpose of establishing a Commercial Zone "C" is to provide an area where commercial activities involving an impact greater than normally found in uses permitted in Commercial Zones "A" and "B", including greater impacts in respect to traffic, noise, and overall impact, will be permitted.
- b. PERMITTED PRINCIPAL USES IN A COMMERCIAL ZONE "C". All permitted principal uses that are explicitly permitted in a Commercial Zone "B" without requiring SITE PLAN APPROVAL are permitted in a Commercial Zone "C".
- c. PERMITTED USES IN A COMMERCIAL ZONE "C" UPON APPROVAL OF THE SITE PLAN. The following uses are permitted upon approval of the site plan by the Planning Board:
 - i) Any use expressly permitted in Commercial Zones "A" or "B" upon approval of the site plan.
 - ii) Car wash.
 - iii) Hotel, motel, and boarding houses.
 - iv) Facilities for the sale of any new products, produce, goods, and equipment.
 - v) Automotive and other motorized vehicle repair facilities.
 - vi) Theaters.

- vii) Mobile home and recreational vehicle sales.
- viii) Rental facilities for car, trailer, truck and other rental operations.
- ix) Warehouses.
- x) Wholesale businesses including wholesale sales of auto and farm machinery but excluding junkyards.
- xi) Yards for the sale and storage of lumber, wood, and feed.
- xii) Adult entertainment business, subject to the additional requirements set forth in Section 710.

5. OTHER PROVISIONS, ALL COMMERCIAL ZONES.

a. PERMITTED ACCESSORY USES.

- i) Those permitted in any residential zone.
- ii) Automobile parking and off-street loading areas, subject to further requirements of this Local Law.
- iii) Accessory storage buildings, but not to include outside storage.

b. REQUIRED LOT AREA.

- i) Residential uses - lot area shall not be less than one acre for a one- or two- unit residential building plus five thousand square feet for each additional dwelling unit on the same lot, with frontage of not less than one hundred fifty feet and a lot depth of not less than two hundred feet unless served by public water in which event lot area shall be not less than one half acre with frontage on a public street of not less than one hundred feet and a lot depth of not less than one hundred fifty feet.
- ii) All other uses - lot area shall not be less than one acre with frontage not less than one hundred fifty feet.

c. YARDS.

- i) Minimum front yard depth - 25 feet for buildings. No minimum front yard depth is required for constructed parking spaces, subject to the provisions of subparagraph (g) below.

ii) Minimum side yard width - 25 feet for buildings and constructed parking spaces.

iii) Minimum rear yard depth - 25 feet for buildings and constructed parking spaces.

The foregoing yard requirements may include any required buffer areas and shall not be in addition to any required buffer areas.

d. SIGNS.

i) Same as those permitted in the low density residential zone.

ii) Advertising sign boards advertising only the services or products available on the premises may be attached to the principal facade of the building or located in any yard space provided that no part of the sign is less than 5 feet from any front yard line and 15 feet from any other lot line. All such advertising signs shall be no larger than 50 square feet, if free standing, or no larger than 50 square feet or 25% of the facade area, if located on the facade. Such sign shall be non-flashing. No more than one free-standing sign shall be permitted per lot.

e. HEIGHT. No building shall exceed 36 feet in height from the lowest exterior grade or 40 feet in height from the lowest interior grade. No structure shall exceed 36 feet in height. This height limitation shall not apply to silos, barns, or other structures used in connection with generally recognized agricultural operations. No such agricultural structures, however, shall exceed 100 feet in height, or be located less than 100 feet from any side or rear property line.

f. BUILDING AREA. The maximum building area shall not exceed 30% of the lot area.

g. BUFFER AREAS, SCREENING, AND ADDITIONAL SETBACK REQUIREMENTS.

i) No building shall be placed nearer than 25 feet from any non-commercial zone. This buffer strip shall not be in addition to the required front, side and rear yards. A strip at least 10 feet wide within such buffer area shall be suitably planted to screen a commercial zone from present or future residences, or a suitable screening fence shall be erected.

ii) In addition to the screening requirement set forth above, additional setback, landscaping, fencing, screening, or earth berm may be

required to be provided in any area where a proposed structure or use would create a hazardous condition or would detract from the value of neighboring property if such landscaping, fencing, screening, or berm were not provided.

- h. WASTE DISPOSAL - No waste or refuse shall be placed outside any building in a commercial zone except that an area common to all businesses, or a separate area for each business shall be reserved at the rear of the structure or structures. These areas shall contain bins, or other receptacles adequate to prevent the scattering of waste and refuse, and shall be planted or fenced so as to be screened from the public view. Such area and receptacles shall not be located in any buffer area or required yards. No refuse shall be burned on the premises.

Section 607 - PLANNED DEVELOPMENT ZONES. The purpose of the Planned Development Zone and the following regulations is to accommodate certain developments of land and buildings that are to be planned and executed as a unit, such as, but not limited to, large subdivisions, business parks (which may include Light Industrial uses, mobile home parks, and similar types of land uses, and to establish standards by which development in such zones shall occur. ~~[3-11]~~

1. LAND AREA. Planned Development Zones shall comprise at least five (5) acres. When and if a Planned Development Zone is established any Planned Development in said zone shall comprise at least 5 acres.
2. OTHER REQUIREMENTS. The requirements of the Commercial Zones shall also be applicable to any development in a Planned Development Zone unless specifically waived or altered by the Town Board during the course of the establishment of said zone according to the procedures set forth in this ~~Ordinance~~Local Law.
3. APPLICATION FOR PLANNED DEVELOPMENT ZONE. An application for the establishment of a Planned Development Zone shall be submitted to the Town and processed in the manner set forth below.
4. EXISTING ZONES CONTINUED. Any Planned Development Zone, (formerly known as Planned Development Districts) legally created before the adoption of this revised ~~ordinance~~Local Law shall continue as heretofore approved, subject to the Town's ability to rezone any such area in the future in the same manner as the Town may rezone any other area, zone, or district in the Town.

Section 60608 - MOBILE HOME PARK ZONE.

1. LOCATION AND CRITERIA. With the approval of the Town Board, a Mobile Home Park Zone may be established in any area of the Town. In considering any

application for any such use, the Town Board shall refer to the requirements of the Tompkins County Health Department or such agency as shall at that time be charged with the duty of approving sewage disposal in the area contemplated for such use, and consideration shall be given to the environmental characteristics of the area, such as adequate and safe highways, access roads, properly designed site locations for trailers, water availability, and the character of the location in relation to the adjacent properties and the zoning thereof. No application shall be properly received unless accompanied by a proper proposed site plan which, in addition to the matters required of a site plan elsewhere in this ~~Ordinance~~Local Law, shall include the site locations, proposed roads, sewage disposal, landscaping, and other matters as may be required by the Town Board. The developer shall also submit suitable plans and proposed regulations for sewer connection, water supply, toilets, bathing facilities, garbage removal, registration of occupants, inspection of camps and providing time limits on duration of stay of house trailers in such trailer camps, tourist camps or similar establishments. Any mobile home park shall comply with any mobile home ~~ordinance~~Local Law that is now or may hereafter be enacted by the Town of Danby.

2. USE REGULATIONS. In a Mobile Home Park Zone no building shall be erected or extended and no land or building or part thereof shall be used for other than a mobile home park. In a mobile home park, there shall be no more than one dwelling unit maintained in each mobile home.
3. ACCESSORY USES. The following accessory uses are permitted in Mobile Home Park Zone:
 - a. Automobile parking and garages, subject to the further requirements of this Section.
 - b. Structures and open land for recreation, intended for use by the residents of the mobile home park.
 - c. Such areas and structures as may be necessary for homemaking activities, such as a common laundry or garden plots. The use of any such area or structure may be limited to residents of the mobile home park.
 - d. Day care homes.
 - e. Group day care facilities and group family day care homes by Special Permit.
 - f. Day care centers by Special Permit.
 - g. Building-Mounted Solar Collection System, subject to the provisions of Article VII: Special Regulations, § 714 – SOLAR ENERGY SYSTEMS ~~{7-17}~~

- h. Building-Mounted Solar Energy System ~~{7-17}~~
- 4. MINIMUM AREA FOR A MOBILE HOME PARK ZONE. A minimum tract of ten acres is required for the development of a Mobile Home Park Zone.
- 5. REQUIRED LOT AREA. Each mobile home lot shall have a minimum gross area of 5,000 square feet. The arrangement of lots in the park shall facilitate the efficient development of land and permit the convenient access of emergency vehicles.
- 6. STAND LOCATION. The location of the mobile home stand on each lot shall be identified on the site plan that was the basis for the creation of the Mobile Home Park Zone.
- 7. STANDS. The mobile home stand shall be provided with anchors and other fixtures capable of securing and stabilizing the mobile home. These anchors shall be placed at least at each corner of the mobile home stand.
- 8. SKIRTING. Each mobile home owner, within thirty (30) days after the arrival of the mobile home in the park, shall be required to enclose the bottom space between the edge of the mobile home and the mobile home stand with a skirt of metal, wood or other suitable material. This skirt shall be properly ventilated and securely attached to the mobile home.
- 9. PARKING. One garage or lot parking space shall be provided for each mobile home, plus one additional lot space for each 3 mobile homes. No parking lot shall be located farther than 100 feet from the dwelling unit it is intended to serve. Each parking space shall have a minimum of 180 square feet.
- 10. BUFFER YARDS. A buffer yard at least 30 feet wide shall be provided around the perimeter of the mobile home park. No structures are permitted in the buffer yard and the Planning Board may require that suitable landscaping be provided in order to effectively screen the mobile home park from adjacent properties. Parking spaces are not permitted in the buffer yards.
- 11. ACCESS DRIVES AND WALKWAYS. Access drives shall be paved with blacktop, concrete, or other solid material. Driveways and walkways shall provide safe access, ingress, and traffic circulation within the site. The placement, size, and arrangement of access to public ways shall be subject to the approval of the appropriate highway authority. Where the density of population or school bus routes make it necessary, sidewalks and bus shelters may be required.
- 12. OPEN SPACE AND RECREATION AREAS. The applicant shall provide recreation areas on the premises for children. The Planning Board shall review and approve all such areas. Ten percent of the gross lot area of the mobile home park, exclusive of the area reserved for buffer yards, shall be permanently maintained as

open space.

13. STORAGE SPACE. The owner shall provide storage space in convenient locations for each mobile home lot. This storage space shall be contained in an enclosed and secure structure. Several storage structures may be located in a common building. The minimum dimensions of storage space per lot shall be eight feet high, eight feet deep, and four feet wide.
14. SCREENING OF WASTE AND REFUSE. One or more common areas shall be provided for the disposal of waste and refuse. These areas shall contain secure garbage bins of a suitable size. These areas shall be screened from public view by shrubbery or a fence.
16. SIGNS. A single sign for the mobile home park is permitted no larger than a sign permitted in the Commercial Zones.
17. BUILDING PERMITS. A building permit shall be required pursuant to this ~~Ordinance~~Local Law for each mobile home and/or accessory structure to be sited or constructed.
18. SITE PLAN APPROVALS. No building permit shall be issued for a building within a Mobile Home Park Zone unless the proposed structure is in accordance with a site plan approved pursuant to the provisions of this ~~Ordinance~~Local Law and approved by the Tompkins County Health Department. No subdivision of a mobile home park site plan is permitted without approval of the Town Board, following Planning Board review. No alteration, amendment or change in a trailer park site plan is permitted without approval of the Planning Board.

Section ~~607609~~ Aquifer High Vulnerability Overlay Zone – The purpose and intent of establishing the Aquifer High Vulnerability (AHV) Overlay Zone is to preserve critical unconsolidated aquifer recharge areas as well as the wellhead protection areas for the West Danby Water District and other community water systems.

1. APPLICABILITY.

- a. The (AHV) Overlay Zone shall be considered as ~~overlying~~overlying other zones as shown on the zoning map.
- b. Any uses not permitted in the underlying zone shall not be permitted in the (AHV) Overlay Zone.
- c. Any uses permitted in the underlying zone shall be permitted in the (AHV) Overlay Zone, except where the overlay zone prohibits the use or imposes greater or additional restrictions and requirements.
- d. In any cases where conflicts arise between these requirements and any

other existing regulations, the more restrictive regulations shall apply.

2. OVERLAY ZONE BOUNDARIES.

- a. The (AHV) Overlay Zone boundaries are based upon: (1) the location of unconfined aquifers (including alluvial fan aquifers that also serve to recharge deeper confined aquifers) and unknown aquifer types in the report by the United States Geological Survey entitled “Hydrogeology and Water Quality of the Stratified-drift Aquifers in Upper Buttermilk Creek and Danby Creek Valleys, Town of Danby, Tompkins County, New York”; (2) the location of alluvial and kame deposits aquifers in the Cayuga Inlet and lower Michigan Creek valleys as mapped by the USGS in a report entitled “Unconsolidated Aquifers in Tompkins County, New York”; (3) the location of the stratified-drift aquifer boundary in the USGS report entitled “Hydrogeology of the stratified-drift aquifers in the Cayuta Creek and Catatonk Creek valleys in parts of Tompkins, Schuyler, Chemung, and Tioga Counties, New York”; (4) the delineation of the West Danby Water District wellhead protection area as detailed in a report entitled “Delineation of the West Danby Water District Wellhead Protection Area Using Volumetric Shape Methods” by New York Rural Water Association that is filed with the Town Clerk; and (5) 300-foot buffer distances around other community water system wells.

3. PROHIBITED USES AND ACTIVITIES IN AHV OVERLAY ZONE.

The following uses and activities are specifically prohibited in the Aquifer High Vulnerability (AHV) Overlay Zone since by their nature they pose a higher threat to the quality or quantity of groundwater resources than other uses and activities:

- a. Airport and/or airport maintenance areas, including private airplane landing fields.
- b. Appliance or small engine repair shops
- c. Boat service, repair, and/or washing establishments
- d. Car washes.
- e. Cemeteries or crematoriums.
- f. Chemical and/or biological testing laboratories
- g. Horticultural nurseries.
- h. Excavation of overburden and/or minerals from the earth for sale or

exchange, or for commercial, industrial, or municipal use (except for the sale of incidental overburden and/or minerals from excavation related to construction as part of an agricultural or residential use).

- i. Funeral homes and mortuaries.
 - j. Furniture strippers and/or refinishers
 - k. Gasoline service stations or service and repair garages.
 - l. Generation and/or storage of hazardous wastes except for that associated with residential or agricultural uses.
 - m. Golf courses.
 - n. Industrial establishments.
 - o. Junkyard, salvage, or impoundment yards (including used motor vehicle parts and scrap/waste materials).
 - p. Laundromats and dry-cleaning facilities.
 - q. Municipal or industrial sewage treatment facilities with disposal of principal or secondary treatment effluent.
 - r. Personal service shops such as a barber shop, beauty parlor, or hairdresser.
 - s. Pest control services or pesticide/herbicide stores.
 - t. Pet cemeteries or crematoriums.
 - u. Printers
 - v. Storage of petroleum except for on-site petroleum consumption.
 - w. Installation of new or replacement underground storage facilities for petroleum or hazardous substances.
 - x. Veterinary clinics, hospitals or animal kennels.
4. MAXIMUM IMPERVIOUS COVERAGE.
- a. Except as hereinafter provided, within the Aquifer High Vulnerability (AHV) Overlay Zone, the following table shall be used to determine the maximum percentage of a parcel that may be rendered impervious to infiltration:

| Lot Size (acres) | Maximum % of Lot Covered By Impervious Surfaces¹ |
|-------------------------|--|
| ≥ 2 | 10 % |
| 1 to 1.99 | 15 % |
| 0.5 to 0.99 | 20 % |
| <0.5 | 30 % |

¹ Maximum site impervious coverage calculations shall include all impervious surfaces with a minimum area of over one hundred (100) square feet.

- b. Impervious coverage may only exceed the impervious surface percentages in the preceding table if a system of stormwater management and treatment is developed that results in the site’s post-development annual stormwater recharge volume to groundwater approximating the site’s pre-development annual groundwater recharge volume. Such a system should also: preserve hydrologic conditions that closely resemble pre-development conditions, maintain or replicate the predevelopment hydrologic functions of storage, infiltration, and groundwater recharge; prevent untreated discharges; reduce or prevent flooding by managing the peak discharges and volumes of runoff; minimize erosion and sedimentation; prevent degradation of water by reducing suspended solids and other pollutants; and provide increased protection of sensitive natural resources.

Section 608610 Riparian Buffer Overlay Zone – The purpose and intent of establishing the Riparian Buffer Overlay Zone is to provide a buffer area around perennial and intermittent streams to preserve and improve the natural slowing, filtering, and infiltration of surface runoff before it reaches streams, to preserve the ecosystem function of stream corridors, and to minimize development in places most likely to experience flooding.

- 1. **APPLICABILITY.**
 - a. The Riparian Buffer Overlay Zone shall be considered as overlying other zones as shown on the zoning map.
 - b. Any uses not permitted in the underlying zone shall not be permitted in the Riparian Buffer Overlay Zone.
 - c. Any uses permitted in the underlying zone shall be permitted in the Riparian Buffer Overlay Zone, except where the overlay zone prohibits the use or imposes greater or additional restrictions and requirements.
 - d. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

2. OVERLAY ZONE BOUNDARIES.

- a. The Riparian Buffer Overlay Zone boundaries are based upon 100-foot buffers from perennial streams and 50-foot buffers from intermittent streams as identified, classified, and mapped by Tompkins County. The Planning Board may consider actual riparian waterway locations in review rather than Tompkins County mapping if existing mapping does not match current conditions.

4. MAXIMUM IMPERVIOUS COVERAGE.

- a. Within the Riparian Buffer Overlay Zone, no new impervious surface may be added or constructed within 100' of perennial streams with the following exceptions: land within the Hamlet Center or Hamlet Neighborhood Zones, development of trails granted a waiver by the Planning Board, the shortest feasible crossing for roads and driveways granted a waiver by the Planning Board.
- b. Within the Riparian Buffer Overlay Zone in the Hamlet Zones any new impervious surface within 50 feet of a perennial stream is subject to Site Plan Review by the Planning Board. The goal of Site Plan Review will be to mitigate new impervious surface to the greatest extent possible
- c. Within the Riparian Buffer Overlay Zone any new impervious surface within 50 feet of an intermittent stream is subject to Site Plan Review by the Planning Board. The goal of Site Plan Review will be to minimize and mitigate new impervious surface to the greatest extent possible.

Section 609611 Habitat Corridor Overlay Zone – The purpose and intent of establishing the Habitat Corridor Overlay Zone is to provide connections for plant and animal habitat between major contiguous habitat hubs.

1. APPLICABILITY.

- a. The Habitat Corridor Overlay Zone shall be considered as ~~overlaying~~overlying other zones as shown on the zoning map.
- b. Any uses not permitted in the underlying zone shall not be permitted in the Habitat Corridor Overlay Zone.
- c. Any uses permitted in the underlying zone shall be permitted in the Habitat Corridor Overlay Zone, except where the overlay zone prohibits the use or imposes greater or additional restrictions and requirements.
- d. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.

2. OVERLAY ZONE BOUNDARIES.
 - a. The Habitat Corridor Overlay Zone boundaries are mapped on the adopted Habitat Corridor Overlay Zone Map as of _____ date by the Town Board.

4. SITE PLAN REVIEW FOR ALL NEW IMPERVIOUS COVERAGE.
 - a. Within the Habitat Corridor Overlay Zone no new impervious surface may be added or constructed without Site Plan Review and approval by the Planning Board with a goal of minimizing and mitigating new impervious surface to the greatest extent possible. Site Plan Review should encourage the minimization of any barriers to plant and animal movement ~~withing~~within the corridor including widening areas of human impact, fencing, and other barriers.

Section ~~610612~~ Agricultural Support Small Scale Commercial & Light Industry Floating Zone – The purpose and intent of establishing the Agricultural Support Small Scale Commercial & Light Industry Floating Zone is to enable the development of small-scale commercial businesses and small-scale light industrial uses that directly support local agricultural production. These businesses are not required to locate on a farm and may serve multiple farms in the area.

1. APPLICABILITY.
 - a. Agricultural Support Small Scale Commercial & Light Industry Floating Zone shall be considered a floating zone and shall not be applied to any parcel except through the process described below.
 - b. Applying the Agricultural Support Small-Scale Commercial and Light Industry Floating Zone to a particular parcel requires that specific parameters be met:
 1. The parcel must be ~~20acres~~20 acres or more.
 2. Minimum 300' front, rear, and side yards are required for all uses allowed by the floating zone.
 3. Applicant must demonstrate that no noise, light, dust, or smells will be produced in a manner that creates a negative impact at the property line.
 4. Parking suitable for the allowed use must be accommodated on the parcel and ~~buffered~~concealed from view from adjacent parcels and the road.
 5. Applicant must demonstrate minimal impact on neighbors and mitigate any viewshed impacts.
 6. The developed area must not exceed 1 acre of impervious surface.
 7. New buildings must not exceed 20,000 sq ft.

- c. Except as specified in this Floating Zone, all underlying zoning parameters apply.
2. OVERLAY ZONE BOUNDARIES.
- a. The Agricultural Support Small Scale Commercial & Light Industry Floating Zone boundaries are mapped on the adopted Agricultural Support Small Scale Commercial & Light Industry Floating Zone Map as of _____ date by the Town Board.
4. ALLOWED USES.
- a. Within the Agricultural Support Small Scale Commercial & Light Industry Floating Zone and subject to the requirements defined above the following uses are allowed by Site Plan Review only:
 - i. Processing of agricultural products produced within 100 miles
 - ii. Butcher
 - iii. Fiber mills and other fiber processing
 - iv. Tractor and Farm Implement sales and repair
 - v. Sales and promotion of agricultural products
 - vi. Similar small-scale commercial and light industrial uses that support local agricultural production

ARTICLE VII: SPECIAL REGULATIONS

Section 700 - APPLICATION. Except as otherwise herein provided, the following special regulations shall apply to the entire Town.

Section ~~702~~701 - ENCLOSURE OF EXCAVATION SITES. Any commercial operation involving the excavation of top soil, sand, gravel, clay, shale or other natural deposit or the quarrying of any kind of rock formation at depths of more than 6 feet shall be enclosed by a substantial fence. ~~{3-11}~~ This section shall not be construed to allow or permit any Natural Gas and/or Petroleum Exploration, any Natural Gas and/or Petroleum Extraction, or any Natural Gas and/or Petroleum Support Activities, and is intended to, and shall be deemed and construed to, apply only to extractive surface-based mining activities that seek to and actually extract only naturally occurring rocks, sands, gravels and similar excavations and their overburdens. ~~{3-11}~~

Section ~~703~~702 - ABANDONMENT OF QUARRIES, ETC. At such time as any quarry or excavation for the purpose of extraction of natural resources is abandoned, all steep sides shall be sloped to a slope of not greater than one vertical foot of slope in each three lineal

feet, and the entire area is to be adequately seeded or otherwise landscaped to prevent erosion. Nothing contained in this section is intended to relieve a quarry or excavation owner from complying with more stringent requirements of any federal, state, or local law or regulation. ~~[3-11]~~ For the purposes of this Section 703, no reference to a quarry or to the extraction of natural resources shall include Natural Gas, any Natural Gas and/or Petroleum Exploration, any Natural Gas and/or Petroleum Extraction, or any Natural Gas and/or Petroleum Support Activities, and is intended to, and shall be deemed and construed to, apply only to extractive surface-based mining activities that seek to and actually extract only naturally occurring rocks, sands, gravels and similar excavations and their overburdens, ~~[3-11]~~

Section ~~704~~703 - PUBLIC GASOLINE FILLING STATIONS AND GARAGES.

1. In no case shall a gasoline or oil pump, oiling or greasing mechanism, or other service appliance installed in connection with any gasoline filling station or public garage be closer than thirty feet from any street line or highway right-of-way line.
2. No automobile repair work, except emergency work, shall be carried on out of doors ~~and~~. All automobile or motor vehicle parts, dismantled vehicles, and similar articles shall be stored within a building, or stored at ~~an exterior~~ location not visible from ~~any point from any~~ adjoining ~~property~~properties.

Section ~~705~~704 - JUNK YARDS. Junk yards are specifically excluded from all zones except that junk yards may be established as part of a planned development zone in accordance with the provisions for same. Any junk yard existing as a non-conforming use shall not be expanded or enlarged and shall be completely enclosed by a substantial and opaque screen (fence, berm, or other visual and completely opaque screen) with openings only for ingress and egress at no more than one-hundred-foot intervals along a property line including road frontage. Such openings shall not exceed twenty-five feet in width. Such screen shall be at least six feet high and shall be no nearer than twenty-five feet from any public highway right-of-way line, and there shall be no storage outside the screen.

Section ~~706~~705 - OFF-STREET PARKING.

1. **RESIDENTIAL PARKING SPACES.** Not more than two (2) parking spaces per dwelling unit shall be located in required front yard areas. Under no circumstances shall more than four parking spaces for the entire building be located in any required front yard area. Front yards shall not be used for the storage of abandoned or disabled vehicles.
2. **MULTIPLE RESIDENCE PARKING SPACES.** No more than one parking space per dwelling unit shall be located in required front yard areas and in no event shall more than four parking spaces be located in any required front yard area.
3. **PARKING REQUIREMENTS FOR OTHER USES.** This provision shall not apply in the Hamlet Neighborhood or Hamlet Center Zone. In all other instances, a

minimum of 300 square feet of parking area, including lanes and driveways, shall be provided for each 100 square feet of enclosed floor area, excluding basements used for storage, except in the cases of the following uses, for which off-street parking shall be provided in accordance with the following schedule:

- a. School or other educational institutions - four spaces for each class room.
 - b. Hospital, sanitarium or nursing or convalescent home - one space for each two beds.
 - c. Theater, community center or other place of public assembly - one space for each five seats.
 - d. Bowling Alley - three spaces for each alley.
 - e. Roller skating rink, dance hall or similar places of amusement - one space for each 50 square feet of gross floor space.
 - f. Motel, hotel, rooming house, tourist home - one space for each room offered to rent, which space must be available at night.
 - g. Fraternity or sorority house or membership club - one space for each two beds, or one space for each three members, whichever figure is larger.
 - h. Restaurant or tavern - one space for every three seats.
 - i. Office or bank building - one space for each 200 square feet of office or bank floor area.
 - j. Retail Stores - one space for every 200 square feet of sales space on the ground floor or main sales floor, whichever is larger and one space for each 500 square feet of sales area on all other floors combined.
 - k. Churches - one space for every four seats.
 - l. Personal Service Shops - one space for every 50 square feet of gross floor area.
4. NO PARKING IN BUFFER ZONES. Except as specifically permitted for residence zones above, there shall be no parking in any required front, side or rear yard or buffer zone. Parking lots shall be surfaced with blacktop, stone, or other material that does not produce dust and shall be graded so as to drain properly.

Section ~~707~~706 - MOBILE HOMES AND MOBILE HOME PARKS.

1. MOBILE HOMES. Mobile homes are any manufactured home built prior to June

15, 1976. Manufactured homes built after June 15, 1976 and certified by HUD, whether they are single wide, double wide, or any other shape, are treated as single unit homes when installed on a permanent foundation as required by New York State law and are allowed wherever a stick built single unit home would be allowed. The limitations below apply only to Mobile Homes as defined above. No mobile home whether on wheels or otherwise supported shall be permitted in any zone or area except where otherwise specifically permitted pursuant to the terms of the Zoning ~~Ordinance~~Local Law; provided, however, that in any zone a mobile home shall be permitted under the following circumstances:

- a. DOUBLEWIDE MOBILE HOMES. Doublewide mobile homes are permitted on individual lots subject to the provisions of Section 1102 of this ~~ordinance~~Local Law.
- b. SINGLEWIDE MOBILE HOMES. Singlewide mobile homes are permitted under the following circumstances:
 - i) in Mobile Home Parks and in Planned Development Zones specifically designated for such use.
 - ii) as a temporary residence for a period of up to eighteen months on a lot where a permanent dwelling is to be constructed subject to the following requirements:
 - (a) The owner of the land and/or the mobile home shall have obtained a building permit for said mobile home from the Code Enforcement Officer prior to moving said mobile home on the premises;
 - (b) The owner of the land and/or the mobile home shall have submitted to the Code Enforcement Officer a specific set of building plans and specifications for the construction of a permanent dwelling on said lot at the time the owner applies for said mobile home site plan; and
 - (c) Within twelve months after obtaining approval for such mobile home the permanent building being constructed on the lot must be enclosed and heat installed. In the event of non-compliance with this subparagraph (c), the mobile home site plan approval shall be revoked by written notice to the owner of the land or mobile home by the Code Enforcement Officer, and the owner of the land must cause removal of said mobile home from the premises within three months of the receipt of said written revocation of the mobile home permit.

- c. CONSTRUCTION TRAILERS. A mobile home being used as a construction trailer may be placed upon premises if the owner of the premises or the owner of the trailer obtains a permit for such occupancy from the Code Enforcement Officer. Such permit shall be granted only in conjunction with the issuance of another building permit for construction of a structure on the same premises costing at least \$75,000, or in conjunction with a public works project. Any permit for such construction trailer shall expire one year from the date of its issuance unless renewed by the Code Enforcement Officer.

- d. PREEXISTING SINGLEWIDE MOBILE HOMES. The following applies to singlewide mobile homes on individual lots which were occupied on and before July 10, 1995.
 - i) If such a singlewide mobile home is the single residential structure on the lot, it may continue to be occupied as a lawfully permitted use. It may be replaced with a newer manufactured home subject to the issuance of a building permit.

 - ii) If such a singlewide mobile home is the second residential structure on a lot, it may continue to be occupied as a lawfully permitted use. It may be replaced with a newer manufactured home only upon the approval of a Site Plan by the Planning Board.

- e. SINGLEWIDE MOBILE HOMES AS TEMPORARY HOUSING. The new installation of a singlewide mobile home as the second dwelling on a lot may occur upon the granting of a Special Permit for same by the Planning Board for the following:
 - i) Temporary housing for family members related to the owners of the property, when such family members need close attention by the owners due to age, illness, or similar circumstances.

 - ii) Temporary housing for personnel providing support services such as caretaking, nursing, and similar services to the residents of the principal dwelling on the property.

 - iii) Temporary housing for agricultural workers.

- f. CRITERIA FOR ~~SITE PLANS~~SPECIAL PERMIT REVIEW FOR SINGLEWIDE MOBILE HOMES. In considering an application for ~~Site Plan Review~~Special Permit for a singlewide mobile home, the Planning Board shall consider the General Conditions Required for Site Plan Review which are provided elsewhere in this ~~ordinance~~Local Law. In approving such a ~~Site Plan~~Special Permit, the Planning Board may place conditions on

such to ensure that, for example, temporary housing is properly used as intended, and is removed when it is no longer needed.

Section ~~708~~ ~~{3-11}~~ 707 - LIGHT INDUSTRIAL ESTABLISHMENTS. Light Industrial uses and/or operations may only be allowed, established, or conducted within approved Planned Development Zones, except where otherwise permitted in a different Zone. ~~{3-11}~~

Section ~~709~~ 708 - FLOOD HAZARD PROTECTION. No construction shall occur within an area governed by the Town of Danby local law relating to flood damage protection except as the same is permitted and occurs in accordance with the terms of such local law.

Section ~~710~~ 709 - WIRELESS COMMUNICATION FACILITIES- No approvals of, construction of, or modifications to Wireless Telecommunications Facilities, as defined in the Town of Danby Local Law governing such facilities, shall occur except as the same is permitted and occurs in accordance with the terms of such local law.

Section ~~711~~ 710 - ADULT ENTERTAINMENT BUSINESSES. Adult entertainment businesses, when permitted by other provisions of this ~~ordinance~~ Local Law, shall be subject to complying with the following requirements which shall be in addition to any other requirements or considerations set forth elsewhere in this ~~Ordinance~~ Local Law:

1. Receipt from the Planning Board of a special permit or same after submission and approval by the Planning Board of a site plan, all in accordance with the provisions of Articles VIII and IX of this ~~Ordinance~~ Local Law.
2. The building in which the business is conducted, and the related parking areas, are located at least
 - a. 150 feet from any highway right of way line;
 - b. 250 feet from the boundary of any Residential Zone;
 - c. 750 feet from any dwelling or public hiking trail;
 - d. 750 feet from the property boundary line of any church, school, library, community center, child care facility, government building, fire station, public recreation area, or any other facility or area serving significant numbers of children and families, or where children and families regularly congregate; and
 - e. 1000 feet from the building and related parking area of any other adult entertainment business or any establishment at which alcoholic beverages are sold;

The distances provided hereinabove shall be measured by following a straight line,

without regard to intervening buildings, from the nearest building, parking lot boundary, or other structure of an adult entertainment business, to the nearest point of the principal residential structure, public recreation area, hiking trail, lot line, or zone boundary from which the adult entertainment business is to be separated.

3. The building and lot upon which it is located comply in all other respects with the requirements set forth in articles VIII and IX and with the requirements of Section 706, except as modified by this local law and with the following further exceptions:
 - a. If the type of adult entertainment business, is one specified in Section 706, the minimum parking requirements shall be those set forth in such section for that type of structure (e.g., if the adult entertainment business is a theater, there shall be one parking space for each five seats).
 - b. If the type of adult entertainment business is not one specified in Section 706, the minimum parking requirement shall be 300 square feet of parking area, including lanes and driveways, for each 100 feet of floor area, exclusive of basements used for storage. (e.g., if the adult entertainment business is a massage parlor, the minimum parking area shall be 300 square feet for each 100 feet of floor area).

Section ~~712~~711 - STORMWATER REQUIREMENTS. ~~{2-10}~~ The requirements of the Town's Stormwater Local Law are incorporated into this Zoning ~~Ordinance~~Local Law, and all activities in all zones listed in this Article 6, and all hereafter approved Planned Development Zones, shall comply with such Stormwater Local Law and all requirements therein, including, but not limited to, the preparation and approval of SWPPPs, the obtaining of Stormwater Permits, and the design, planning, installation, construction, maintenance, and improvement of temporary and permanent Stormwater Management Practices, as each and all of such capitalized terms are defined and used within such Stormwater Local Law. ~~{2-10}~~

Section ~~713~~712 - GROUNDWATER PROTECTION REQUIREMENTS. ~~{8-16}~~

1. PROHIBITED USES AND ACTIVITIES. The following uses and activities are specifically prohibited in the Town of Danby in order to safeguard groundwater resources:
 - a. Any use or activity that involves the on-site disposal of solid waste, medical waste, petroleum, radioactive material, hazardous or toxic substances, hazardous waste, process wastes, including wastewater (except for the disposal of sewage through an on-site wastewater treatment system, or the agricultural use of animal manure, associated bedding material, and food processing wastes where such wastes are applied at or below agronomic rates).
 - b. Any solid waste management facility except for land application or

composting facilities permitted by NYSDEC for agricultural use within an agricultural district created pursuant to New York State Agriculture and Markets Law.

- c. Surface land application of septage, sewage, or sludge except where permitted by NYSDEC for agricultural use within an agricultural district created pursuant to New York State Agriculture and Markets Law.
- d. Construction of a concentrated animal feeding operation in portions of the Town located outside of a local agricultural district created pursuant to New York State Agriculture and Markets Law.
- e. A facility that receives hazardous or toxic substances, hazardous waste, medical waste, or radioactive material generated off-site for treatment, storage, or disposal.
- f. Bulk stockpiling or storage of coal, cinders, deicing compounds, hazardous substances, hazardous wastes, toxic substances, fertilizers, herbicides and/or pesticides except in packaging for individual use or resale or in structures designed to prevent contact with precipitation and constructed on low permeability pads designed to control seepage and runoff.
- g. Storage of manure, except for individual household or agricultural use, or at commercial establishments in packaging for individual use or resale.
- h. Natural gas and/or petroleum extraction, exploration, production and associated support activities, materials, and wastes, the definition of which is more particularly described elsewhere in this [OrdinanceLocal Law](#).
- i. Drilling of wells to be used for: natural gas and/or petroleum exploration, extraction, production, and/or storage; solution salt mining; open-loop geothermal heating and cooling systems; or disposal of wastes including brine, natural gas exploration and/petroleum production waste, process waste, hazardous wastes, radioactive material, and wastewater.
- j. Installation of pipeline facilities used in the transportation of hazardous liquids, including crude oil, condensate, natural gasoline, natural gas liquids, liquefied petroleum, and other petroleum products.
- k. Application of production brine from an oil or gas well source or a liquefied petroleum gas (LPG) storage facility onto roads or other land

surfaces.

1. Drilling, development, and/or construction of sources of water for bottled water or bulk water facilities except for the collection of spring water without the use or assistance of an external force. Water must continue to flow naturally to the surface of the earth through the spring's natural orifice.

2. SPECIAL PROVISIONS AND REQUIREMENTS

FACILITIES WITHIN AN AGRICULTURAL DISTRICT. Where land application facilities, composting facilities, or concentrated animal feeding operations are permitted by NYSDEC and located in a local agricultural district created pursuant to New York State Agriculture and Markets Law, the landowner shall: provide the Town a copy of all correspondence between the landowner/applicant and the applicable federal, state or local regulatory agencies; give the Town a copy of all applicable federal, state and local permits; provide access to permitted sites by Town officials; and keep the Town updated on changes in permit status.

3. GROUNDWATER RESOURCES EVALUATION

- a. GROUNDWATER DATA STATEMENT. For any proposed use that will involve the withdrawal of groundwater from on-site wells and would eventually require the preparation and approval of a site plan under the provisions of this ~~Ordinance~~Local Law (see Article VIII, Sections 800-802), the applicant must complete a “Groundwater Data Statement” and submit it to the Town Zoning Enforcement Officer. Such an application must contain the following information:
 - i. Projected average daily water demand from existing and proposed on-site wells. Calculations for estimating the average daily water demand must be included and be based upon established design standards and upon the maximum projected use averaged in any consecutive thirty-day period. Note that the Town of Danby has compiled estimated daily water use for various permitted land uses.
 - ii. A map with the location of all existing and proposed wells at the site, including their position with respect to property lines, existing or proposed water bodies, roads, buildings, and potential contaminant sources as listed in Table 1 of Section 5-B.4 of Appendix 5-B of 10 NYCRR Part 5.
- b. GROUNDWATER RESOURCES ASSESSMENT. Applicants seeking approval for actions classified as Type I in 6 NYCRR Part 617.4 or Environmental Review of Actions in the Town of Danby must conduct and submit a Groundwater Resources Assessment if the submitted

Groundwater Data Statement indicates that the proposed use involves a projected average daily water demand of 4,000 gallons per day or more.

Work related to the Groundwater Resources Assessment shall be performed or directly supervised by a professional geologist. Alternatively, work may be performed or directly supervised by a licensed professional engineer who is experienced in performing groundwater studies.

The Groundwater Resources Assessment shall include:

An inventory of all water wells within one-half mile (2,640 feet) of the proposed site supply wells. The well inventory should include-where available: the location of wells on a map, and a listing of the wells with the following data: well depth, name of owner, type of aquifer intersected, depth of well casing, screened interval (if applicable), diameter, static water level, depth of pump intake, age of well, yield, any issues with water quantity or quality, and any other relevant data that can be reasonably obtained from sources such as government databases (NYSDEC and USGS), local well drillers, and a survey of local property owners.

An inventory of known and potential contaminant sources within 2,640 feet of the pumping well(s). The potential contamination source inventory shall include data from sources such as regulatory databases, real property tax assessment land classification codes, land use mapping, visual survey(s), historical land records, anecdotal accounts, etc.

An inventory of surface waters and wetlands within 2,640 feet of the pumping well(s).

4. PROTOCOLS FOR GROUNDWATER MITIGATION.

UNDUE ADVERSE IMPACT. In evaluating a proposed action classified as Type I in 6 NYCRR Part 617.4 or Environmental Review of Actions in the Town of Danby for determination of environmental significance, the Planning Board, and/or Town Board, acting as Lead Agency must determine that the proposed use will not have an undue adverse impact to existing supply wells, surface water, wetlands, or contaminant source(s). For these proposed actions, it will be presumed that such withdrawals will not have an undue adverse effect if the following can be demonstrated:

The area of pumping influence of the use's wells does not intersect surface water or wetlands.

If the area of pumping influence of the use's wells does intersect surface water, any reduction in surface water levels or flows is slight and will not cause a resultant violation of surface water quality rules.

If the area of pumping influence of the use's wells does intersect wetlands, there is no resulting loss of wetlands, their function, or value.

The area of pumping influence of the use's wells does not intersect any existing off-site water supply wells.

If the area of pumping influence of the use's wells does intersect existing off-site wells, the withdrawal from the proposed use's wells does not affect the continued future use of the existing wells.

The area of pumping influence of the use's wells does not intersect known areas of groundwater contamination.

For uses that a Spill Prevention Plan (SPP) be submitted, it will be presumed that the use and/or storage of substances at the proposed facility will not have an undue adverse effect if the following can be demonstrated:

There are no existing supply wells, surface water, or wetlands located within the areas projected to be impacted by a spill for a minimum distance 1,500 feet downgradient of the facility.

If there are existing supply wells, surface water, or wetlands located within the areas projected to be impacted by a spill for a minimum distance 1,500 feet downgradient of the facility, there will be management practices, response activities, and monitoring practices in place to adequately minimize the potential for impacts.

MITIGATION OF GROUNDWATER WITHDRAWAL IMPACTS. In order to ensure that the quantity and quality of groundwater or surface water is not unreasonably degraded or depleted, the Planning Board or Town Board may require changes or additions to the applicant's site plans as a condition of approval to safeguard available groundwater resources.

Examples of such mitigation measures could include:

Deepening impacted well(s) and test for water quantity and quality.

Redeveloping the well(s) and test for quantity and quality.

Conducting a yield test on an impacted well or re-evaluate existing data.

Evaluating the feasibility of connecting to a public water system or developing an alternative water source for the affected well(s).

Reducing use average withdrawal volumes through design alternatives, water conservation measures, etc.

MONITORING WELLS. If there are existing supply wells, surface water, or wetlands located within the areas projected to be impacted by a spill for a minimum distance 1,500 feet downgradient of the facility, the Planning Board or the Town Board, as a condition of site plan approval or special permit issuance may require ongoing groundwater monitoring as follows:

Installation and maintenance of a minimum of one groundwater monitoring/observation well in a direction upgradient from on-site activities and one groundwater monitoring/observation well in a direction downgradient from on-site activities. In addition, at least one additional monitoring/observation well shall be installed and maintained in order to determine the water table or potentiometric surface gradient at the site. The specific location of these groundwater monitoring/observation wells shall be determined by a professional geologist as defined previously in this section.

Required water quality sampling from monitoring wells will include a set of water quality samples taken before the use has been initiated to serve as a baseline. Subsequent sampling by the facility must occur after any releases of petroleum, chemicals and materials which may cause environmental damage are reported to the NYSDEC. At the time of notification to the NYSDEC, the facility must also report the release to the Town Zoning Enforcement Officer.

At a minimum, the water quality samples are to be analyzed for: coliform bacteria, arsenic, lead, nitrate, nitrite, iron, manganese, sodium, pH, hardness, alkalinity, turbidity, and total dissolved solids. Additional tests for volatile organic compounds, chloride, metals, and/or other parameters will be specified by the Planning Board or Town Board depending upon the nature of the proposed use, material stored, and/or the site's history.

The owner of the property on which groundwater monitoring is required shall pay all costs and fees related to retention of qualified experts and water sampling. Access to monitoring wells and monitoring data shall be provided to the Town for purposes of inspecting and monitoring water quality sampling deemed as appropriate.

The Zoning Enforcement Officer, or his or her designee, shall make regular inspections of the use to ascertain compliance with the rules and regulations set forth above.

5. **COMPLIANCE WITH WATER WELL CONSTRUCTION REGULATIONS AND WELL CONTRACTOR REQUIREMENTS.** Prior to issuance of a Certificate of Occupancy for a project for which a Building Permit was issued, where such project is related to the installation of a new well, the Zoning Enforcement Officer or his or her designee, shall verify the following information:

- a. The water well contractor that has completed the well(s) is registered with the New York State Department of Environmental Conservation (NYSDEC).
- b. A copy of the well completion report(s) has been submitted to the Town, and also to the NYSDEC and the water well owner.
- c. The well installation is in compliance with the provisions of Appendix 5-B of the New York State Department of Health regulations (10 NYCRR Appendix 5-B) unless an applicable waiver or variance has been issued by the New York State Department of Health or Tompkins County Health Department.

In making such verification, the Zoning Enforcement Officer or his/her designee may rely on information from the authorities having jurisdiction cited in 10 NYCRR Appendix 5-B.

Section 714 - SOLAR ENERGY SYSTEMS ~~17-17~~

i. ALL SYSTEMS.

- a. Building Permits are required for all solar energy systems.
- b. To the maximum extent practicable, solar panels must not obscure architectural details or features.
- c. No grid-tied solar energy system may be installed until the applicant has submitted evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator as well as documentation from said utility that it will connect the proposed customer-owned generator into its power grid. Off-grid systems shall be exempt from this requirement.
- d. Solar Energy Systems that produce electricity primarily for active farming or agricultural uses, where the generation is less than one hundred and ten percent (110%) of the farm use, are exempt from Site Plan Review.
- e. Installation of solar energy systems are prohibited in:
 - i. Required open space;
 - ii. Required buffers; or
 - iii. Park set-aside areas required as a condition of subdivision approval.

ii. BUILDING-MOUNTED SOLAR COLLECTION SYSTEMS

- a. Building-Mounted Solar Energy Systems that use the electricity on-site or off-site are permitted as an accessory use in all zoning districts, including Planned Development Zones, when attached to any lawfully permitted building or structure.
- b. Building-Mounted Solar Energy Systems mounted on a flat roof may project no more than 15 feet above the roof surface, and must be set back at least 18 inches from the roof edge.
- c. The highest point of a Building-Mounted Solar Energy System installations on a sloped roof must not exceed the highest point of the roof to which it is

attached as allowed by setback requirements.

iii. GROUND-MOUNTED SYSTEMS

a. All Ground-Mounted Systems.

i. Ground-mounted Solar Energy Systems are limited to a maximum height of twenty (20) feet when system is oriented at maximum tilt from horizontal.

ii. Ground-Mounted Solar Energy Systems are required to meet the same setback requirements as any other principal building in the underlying zoning district.

iii. Ground-Mounted Systems shall not be permitted in a front yard unless the Applicant demonstrates that the rear yard locations will not result in acceptable solar access.

iv. The horizontal surface area covered by Ground-Mounted Solar Energy Systems must be included in total lot coverage and, when combined with the coverage of other structures, the total area must not exceed the maximum lot coverage or impervious surface permitted in the underlying zoning district except that when the maximum impervious surface includes a maximum area in addition to a maximum percentage, only the percentage shall apply to Ground Mounted Solar Energy Systems. In Planned Development Zones that do not reference underlying zoning, the maximum lot coverage is 25%. For the interpretation of this section Solar shall be considered impervious surface.

iv. SOLAR ENERGY FACILITIES

a. Solar collection devices are limited to a maximum height of twenty (20) feet when system is oriented at maximum tilt from horizontal.

b. Solar collection devices must be located outside the minimum side yard and rear setbacks of seventy-five (75) feet; the minimum front yard setback is fifty (50) feet. The minimum setback to an inhabited structure on an adjacent lot must be one hundred (100) feet.

c. The horizontal surface area covered by solar collection devices must be included in total lot coverage and, when combined with the coverage of other structures, the total area must not exceed the maximum lot coverage as permitted in the underlying zoning district.

d. All appurtenant structures to Solar Energy Facilities, including but not limited to equipment shelters, storage facilities, transformers, and substations, must be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

e. Fencing to prevent unauthorized access may enclose Solar Energy Facilities mounted on the ground. Warning signs with the owner's name and emergency contact information must be placed on any access point to the system and on the perimeter of the fencing. Landscaping or planted buffers required to avoid adverse aesthetic impacts, as approved by the Planning Board, must further screen the fencing and the system.

f. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections for the Solar Energy Facility underground,

depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

- g. Motion-activated or staff-activated security lighting around the equipment area of a Solar Energy Facility or accessory structure entrance may be installed provided that such lighting does not project off the site. Such lighting should only be activated when the area within the fenced perimeters has been entered.
- h. A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public right-of-way.
- i. Equipment and vehicles not used in direct support, renovations, additions or repair of any Solar Energy Facility must not be stored or parked on the facility site.
- j. Solar Energy Facilities must not be located in the following areas, unless otherwise approved by the Planning Board in conjunction with a Site Plan Review process as provided in Article VIII:
 - i. Ten (10) acre or greater extents of actively-farmed prime agricultural soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) or alternative available resource.
 - ii. Areas of potential environmental sensitivity, such as Unique Natural Areas as designated by the Tompkins County Environmental Management Council; Critical Environmental Areas as designated by the Town of Danby; one-hundred-year floodplains FEMA Zones A or AE; adjacent to or within the control zone of any airport; state-owned lands; properties encumbered by conservation easements; public trails; parkland; or designated wetlands.
 - iii. On slopes of greater than fifteen percent (15%) unless the Applicant can demonstrate through engineering studies and to the satisfaction of the Town Zoning Enforcement Officer that the proposed development will not create any adverse environmental impact that will not be satisfactorily mitigated.
 - iv. Within the front yard, if any above-ground portion of the system is within 100 feet of a Public Highway right-of-way.
 - v. Within 100 feet of perennial streams and within 50 feet of intermittent streams.
- k. Abandonment and Decommissioning. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. To ensure the proper removal of Solar Energy Facilities, a Decommissioning Plan must be submitted as part of the Application. Compliance with this plan is a condition of the granting of a Site Plan approval under Article VII, Section 808.

1. The Decommissioning Plan must:
 - 1) Specify that after the Solar Energy Facility can no longer be used or has reached the end of its useful life, it must be removed by the Applicant or any subsequent owner.
 - 2) Demonstrate the removal of all solar panels, structures, equipment, security barriers and transmission lines
 - 3) Demonstrate the remediation of soil stabilization and/or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
 - 4) Specify disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - 5) Include an expected timeline for execution.
 - 6) A cost estimate detailing the projected cost of executing the Decommissioning Plan must be prepared by a Professional Engineer. Cost estimations must take inflation into account.
2. Removal of Solar Energy Facilities must be completed in accordance with the Decommissioning Plan. If the Solar Energy Facility is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality.
 1. Financial Surety. An Applicant for a Solar Energy Facility shall provide a form of surety, either through Development Escrow Agreement or bond, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and in a form acceptable to the Town Attorney but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the Applicant. The Applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation or changes to disposal regulations.

ARTICLE VIII: SITE PLAN REVIEW AND APPROVAL PROCEDURES.

Section 800 – SITE PLAN REVIEW FOR APPLICATIONS FOR REZONING. Before an application is submitted to the Town Board for rezoning or the establishment of a Planned Development Zone or a Mobile Home Park Zone, the establishment of which may be permitted under this OrdinanceLocal Law, the applicant shall proceed as follows:

1. At the option of the applicant, the applicant may request a conference with either the Planning Board or the Town Board to informally explore the applicant's proposal. The applicant may submit a sketch or other preliminary information for the board's consideration and reaction. No decision will be made by either board

and the sole function of the conference is to provide a forum early in the process to ~~determine whether the circumstances are such that the application would not likely be successful. Regardless of the reaction of either board, the applicant is entitled to proceed with an application in accordance with the formal procedures set forth below.~~ consider the matters and applications at hand.

2. ~~[2-10]~~ The applicant will submit a general site plan to the Planning Board which shall show (unless one or more items are waived by the Planning Board) property lines, including metes and bounds, adjacent public streets, topography, size and location of existing or proposed structures, *structures including the percentage of impervious surfaces before and after proposed development; details regarding the storage, distribution, generation, use, and/or treatment of any petroleum, hazardous wastes, hazardous or toxic substances, or radiological substances; projected average daily water demands* ~~[8-16]~~ and the applicant shall submit such other plans and information and any other features deemed reasonably necessary by the Planning Board for adequate study of the proposed plan. The application shall also include any documentation required to comply with the New York State Environmental Quality Review Act. Whenever any site plan is required by the Town's Stormwater Local Law to have any temporary or permanent Stormwater Management Practices or to submit any type of SWPPP, whether any waiver is granted or otherwise under such Stormwater Local Law, the site plan shall also show the location, size and function of all Stormwater Management Practices. Additionally, any owner or applicant shall also submit, prior to any consideration of a final approval for any site plan, a SWPPP that has been approved under the Stormwater Local Law and such Maintenance Agreements, management plans, Dedications, or other documents or things as may be requested or required by the Planning Board, including, but not limited to, information relating to compliance with the Stormwater Local Law and all information relating to any SPDES permits applied for, to be applied for, or already issued. ~~[2-10]~~.
3. The Planning Board may require such changes in the general site plan as are necessary to meet the requirements of this ~~Ordinance~~ Local Law and may make any other recommendations which it deems necessary to promote the general health, safety, morals and the general welfare of the community. The Planning Board shall then adopt a resolution recommending to the Town Board approval, approval with modifications, or disapproval of the proposed plan. Before any such resolution is adopted, the Planning Board shall hold a public hearing which shall be heard by the Planning Board within 62 days of the filing of the completed application with the Planning Board. For this purpose, and notwithstanding the terms of Town Law and the State Environmental Quality Review Act and regulations thereunder, an application shall be deemed preliminarily complete upon receipt of all required application materials including SEQR forms needed to determine the environmental significance of the proposed action. If the Planning Board determines the proposed action may have a significant environmental impact, such application shall no longer be deemed complete until receipt of a final environmental impact statement and until all related SEQR proceedings are

completed. Notice of any such hearing shall also follow the Public Hearing Notification Procedures for Site Plans set forth in this ~~ordinance~~Local Law. The Planning Board shall make its recommendation within 62 days after the hearing and shall forward the same to the Town Clerk.

4. The Town Board shall then hold a public hearing on the proposed zone with the same notice required by law in the case of an amendment to the Zoning ~~Ordinance~~Local Law. Notice of any such hearing shall also follow the Public Hearing Notification Procedures for Site Plans set forth in this ~~ordinance~~Local Law. If the Town Board establishes such zone after such hearing, it shall define the boundaries thereof, approve the general site plan and impose any modifications and additional requirements as it may determine. Before finally establishing any such zone, the Town Board may refer the application to the Town Planning Board or the Board of Appeals for such further consideration as the Town Board may require. No building permit shall, in any case, be issued on the basis of a general site plan.
5. Whenever a zone is created pursuant to the provisions of this Article, the owner shall be bound by the general site plan as approved and adopted by the Town Board.

Section 801 - SITE PLANS REQUIRED FOR SITE PLAN REVIEW. When applying for Site Plan Approval pursuant to the procedures hereinafter set forth, a site plan shall be submitted in accordance with this section.

1. The site plan shall show (unless one or more items are waived by the Planning Board) property lines, including metes and bounds, adjacent public streets, topography, size and location of existing or proposed structures, *including the percentage of impervious surfaces before and after proposed development; details regarding the storage, distribution, generation, use, and/or treatment of any petroleum, hazardous wastes, hazardous or toxic substances, or radiological substances; the projected average daily water demands; ~~{8-16}~~* and such other plans and information and any other features deemed reasonably necessary by the Planning Board for adequate study of the proposed plan.
2. The Planning Board may require such changes in the site plan as are necessary to meet the requirements of this ~~Ordinance~~Local Law and may make any other changes which it deems necessary to promote the general health, safety, morals, and the general welfare of the community. The Planning Board shall then adopt a resolution (which resolution may be in conjunction with the resolution regarding approval or disapproval of a special permit) either approving, approving with modifications, or disapproving the proposed plan. Before any such resolution is adopted, the Planning Board shall hold a public hearing which shall be heard by the Planning Board within 62 days of the filing of the completed application for the Special Permit with site plan with the Planning Board. For this purpose, determination of the completeness of the application shall include the provisions set forth above for general site plans. Notice of any such hearing shall also follow the Public Hearing Notification Procedures for Site Plans set forth in this

~~ordinance~~Local Law. The Planning Board shall make its determination within 62 days after the hearing except as such time may be modified for compliance with environmental review requirements and other laws and regulations.

3. The owner and applicant shall be bound by the approval and any conditions imposed on the final site plan ~~as approved~~ by the Planning Board.
4. ~~[2-10]~~ Whenever any site plan is required by the Town's Stormwater Local Law to have any temporary or permanent Stormwater Management Practices or to submit any type of SWPPP, whether any waiver is granted or otherwise under such Stormwater Local Law, the site plan shall also show the location, size and function of all Stormwater Management Practices. Additionally, any owner or applicant shall also submit, prior to any consideration of a final approval for any site plan, a SWPPP that has been approved under the Stormwater Local Law and such Maintenance Agreements, management plans, Dedications, or other documents or things as may be requested or required by the Planning Board, including, but not limited to, information relating to compliance with the Stormwater Local Law and all information relating to any SPDES permits applied for, to be applied for, or already issued. ~~[2-10]~~.

Section 802 - FINAL SITE PLAN APPROVAL AND MODIFICATIONS OF SITE PLANS.

1. ~~[2-10]~~ After any Planned Development Zone, Mobile Home Park Zone, or any other special land use zone has been established by the Town Board, and/or whenever a specified development proposal or site or any changes in the general plan are proposed, or whenever a site plan is required by any other provision of this ~~Ordinance~~Local Law, or whenever a change in the physical conditions of a site is proposed for such a zone that may have been created prior to there being a requirement for a site plan, a site plan for the proposed use must be submitted and approved by the Planning Board before a building permit may be issued. If the original site plan submitted in connection with the initial creation of the zone or the granting of the Special Permit was of sufficient detail and contained sufficient information as to constitute, in the Planning Board's discretion, a final site plan, such original site plan shall suffice, but only so long as there is demonstrated compliance with the Town's Stormwater Local Law, including, but not limited to, the submission and approval of any SWPPP and the issuance of such permits or approvals required under such Stormwater Local Law. Otherwise, the applicant shall submit a detailed site plan (hereinafter referred to as 'final site plan') in accordance with this ~~Ordinance~~Local Law. This final site plan shall show (unless one or more items are waived by the Planning Board) property lines, including metes and bounds, adjacent public streets, topography, including existing and proposed contours, size and location of structures, *including the percentage of impervious surfaces before and after proposed development*; ~~[8-16]~~ area and location of parking, off-street loading and access drives, proposed signs and lighting, proposed landscaping, *details regarding the storage, distribution,*

generation, use, and/or treatment of any petroleum, hazardous wastes, hazardous or toxic substances, or radiological substances; the projected average daily water demands; ~~[8-16]~~ and any other features deemed reasonably necessary by the Planning Board for adequate study of the proposed plan. Such site plan shall also show the location, size and function of all Stormwater Management Practices. Additionally, any owner or applicant shall also submit, prior to the issuance of any final approval for any site plan (conditional or otherwise), a SWPPP that has been approved under the Stormwater Local Law and such Maintenance Agreements, management plans, Dedications, or other documents or things as may be requested or required by the Planning Board, including, but not limited to, information relating to compliance with the Stormwater Local Law and all information relating to any SPDES permits applied for, to be applied for, or already issued. ~~[2-10]~~.

2. The Planning Board may require such changes as are necessary to meet the requirements of this ~~ordinance~~Local Law. If the final site plan is substantially similar to the general site plan, no public hearing shall be required.
3. The Planning Board shall hold a public hearing, ~~unless~~if such hearing ~~has been waived~~is required, within 62 days of the filing of the completed application for final site plan approval. For this purpose, determination of the completeness of the application shall include the provisions set forth above for general site plans. Notice of any such hearing shall also follow the Public Hearing Notification Procedures for Site Plans set forth in this ~~ordinance~~Local Law. Within 62 days after the hearing, or within 62 days of the filing of the completed application with the Planning Board if the hearing has been waived, the Planning Board shall approve or disapprove the final site plan. The owner shall be bound by approval of and any conditions imposed on the final site plan as approved by the Planning Board.
4. If at any time subsequent to the approval of the final site plan, the owner wishes to change the final site plan as approved, an application with the revised site plan prepared in accordance with the requirements of this ~~ordinance~~Local Law shall be submitted to the Planning Board for the Planning Board's approval. In reviewing such application for a modified site plan the Planning Board shall have all of the powers it has with respect to reviewing an original application for site plan approval and the same public hearing requirements, time limits, and other procedures shall apply. Notwithstanding the foregoing, if the modification involves
 - a. construction or alteration of less than 1,000 square feet of enclosed space whether on one or more stories; and
 - b. construction or relocation of less than 3 parking spaces; and
 - c. construction, repairs, alterations, or renovations affecting the exterior of a building or the site, (where exterior work is anticipated to cost less than \$20,000.00), and

- d. enlargement of an existing building that involves an increase of square footage of less than 10% of the existing square footage of the existing building; and
- e. no alteration of proposed traffic flows and access; and
- f. no direct violation of any express conditions imposed by the Planning Board in granting prior site plan approval,

or if the modification involves

- a. a movement or shift of a location of one or more buildings not more than two feet in any direction from the location shown on the final site plan; and
- b. such shift does not alter proposed traffic flows or access; and
- c. such shift does not directly violate any express conditions (including, without limitation, buffer zones, setbacks, etc.) imposed by the Planning Board in granting prior site plan approval,

then such modification may be ~~made~~approved by the Zoning Officer without requiring approval of the modified site plan by the Planning Board. The Zoning Officer shall file the modified site plan with the Town Clerk and notify the Planning Board at their next meeting whenever modifications are made pursuant to this list. This waiver of the requirement of Planning Board approval is not intended to permit construction in violation of any other provision of the Zoning ~~Ordinance~~Local Law including setback, side yard, and similar regulations, or the requirement to obtain a building permit in those circumstances when otherwise required by the terms of this ~~ordinance~~Local Law.

Section 803 - WAIVER OF REQUIREMENTS RELATED TO SITE PLAN. The Town Board in those circumstances where a site plan is required for Town Board review, and the Planning Board, in those circumstances where a site plan is provided for Planning Board review, may waive one or more items (e.g., topography) otherwise normally required to be shown on the site plan when the applicable board determines that the circumstances of the application do not require a full site plan for adequate consideration of the applicant's proposal.

Section 804 - PUBLIC HEARING NOTIFICATION PROCEDURES FOR SITE PLANS.

- 1. Notice of any public hearing scheduled by the Planning Board for consideration of a general, final, or modified site plan, including a site plan which is part of a special permit application, shall be mailed to the applicant and shall be posted and published in the official Town newspaper at least 510 days prior to the date of such

hearing, such notice to include the nature of the request and the time and place at which it will be heard.

2. Notice of any public hearing scheduled by the Town Board for consideration of an application for rezoning shall follow the same notice required by law in the case of an amendment to the Zoning ~~Ordinance~~Local Law.
3. Notice of hearing as described in Paragraphs 1 and 2 above, and as provided in Town Law are the only notifications required. However, in order to promote public information, it is a policy of the Town that a similar notice of any such public hearing be mailed or delivered by the applicant to all owners of property within 500 feet of the boundaries of the property under consideration. The board holding the hearing may, in its discretion, require that property owners within a distance of more than 500 feet of such boundaries be notified, and/or may direct Town staff to conduct the notification. Such mailing or delivery shall occur no less than 5 days prior to the date of the public hearing. The applicant (or the Town staff conducting the notification) shall file proof of such mailing or delivery with the board holding the hearing no later than the date of the hearing.
4. Failure to notify property owners near a site for which a public hearing is scheduled, shall not be a jurisdictional defect and any action taken by any board, employee, or agent of the Town in connection with such hearing shall not be nullified or voidable by reason of the failure to provide such notification. However, the failure to provide such notification may be grounds, should the involved board in its discretion so determine, to decline to conduct a scheduled public hearing. The involved board may, on good cause shown, waive the above-described policy of property owner notification.

Section 805 - GENERAL CONSIDERATIONS. The Planning Board's review of a general, preliminary, or final site plan shall include as appropriate, but shall not be limited to, the following considerations:

1. Adequacy, arrangement, and location of vehicular access and circulation, including intersections, road widths, pavement surfaces, off-street parking and loading areas, and traffic controls for non-residential development or the development of more than 4 residential units.
2. Adequacy, arrangement, and location of pedestrian and bicycle traffic access and circulation, control of intersections with vehicular traffic, and appropriate provisions for handicapped persons.
3. Adequacy, location, arrangement, size, design, and general site compatibility of buildings, lighting, signs, open spaces, and outdoor waste disposal facilities.
4. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise-detering buffer between the applicant's and

adjoining lands, including the retention of existing vegetation of value to the maximum extent possible.

5. In the case of a residential property, and in the case of other properties where appropriate, the adequacy and utility of open space for playgrounds and for informal recreation.
6. Protection of adjacent properties and the general public against noise, glare, unsightliness, and noxious odors, air, water and soil or other objectionable features.
7. Adequacy of storm water, drainage, water supply, and sewage disposal facilities.
8. Adequacy of fire lanes and other emergency provisions.
9. The effect of the proposed development on environmentally sensitive areas including but not limited to wetlands, flood plains, woodlands, steep slopes, and water courses, and on other open space areas of importance to the neighborhood or community.
10. Compatibility of structures and other site improvements with adjoining land uses and the general neighborhood.
11. Compliance with the Zoning ~~Ordinance~~Local Law, subdivision regulations, if applicable, and any other applicable laws, rules, requirements, or policies.
12. ~~{2-10}~~ Compliance with the Town's Stormwater Local Law, and all requirements and conditions therein, including demonstrated approvals and compliance with any SWPPP approvals or SPDES permits. ~~{2-10}~~
13. Compliance with the Town's Groundwater Protection Local Law and consideration of the effect of the proposed use on the quality and quantity of available groundwater resources, surface water, and wetlands at and beyond the boundaries of the proposed use. ~~{8-16}~~
14. Compliance with the Town's Commercial Design Guidelines, Appendix II of this ~~ordinance~~Local Law.
15. Specific Site Plan Review Parameters for Required Site Plans Outside of Hamlet Zones:
 - a. Driveways should be shared, when possible, new road access points must be minimized
 - b. Clustering of development rights is encouraged - clustering of lots may be required by the Planning Board
 - c. New development should minimize impact on Class 1 ~~&~~ & 2 soils
 - d. New development should be hidden or screened from the road and neighboring properties when possible

- e. Attached multiple dwelling units are preferred over separated DUs
- f. Views should be protected and impacts on views should be minimized/mitigated
- g. New development and new lots should be arranged to minimize fragmenting existing contiguous fields and habitat.
- h. Parking for more than 4 vehicles on a lot should be screened from view from the road and neighboring properties.
- i. All new exterior lighting must be Dark Sky compliant.

Section 806 - OTHER PROVISIONS REGARDING SITE PLANS.

1. ~~[2-10]~~ No building permit shall be issued for a project with an approved final site plan until the applicant has furnished to the Zoning Enforcement Officer an irrevocable letter of credit in an amount to be approved by the Planning Board. Such letter of credit shall insure that all items on the site plan that may be deemed necessary to provide for adequate traffic flow, utilities, and other infrastructure items are constructed in accordance with the approved final site plan and any other pertinent specifications and requirements, including the construction, monitoring, dedication, management, maintenance of any Stormwater Management Practices, and including verification of the operational viability thereof. The Planning Board may waive these requirements for 1–4-unit residential projects and other small-scale projects where traffic and infrastructure are not significant concerns (except stormwater requirements) and/or may accept other evidence or promises of completion of required facilities for the site plan if, in its discretion, it determines that there is no need for the letter of credit.
2. No final certificate of occupancy or certificate of compliance shall be issued until all improvements (including Stormwater Management Practices) shown on the final site plan as approved by the Planning Board are installed and, as to any Stormwater Management Practices, operational viability has been verified and any required maintenance and Maintenance Agreements and/or Dedications exist or have occurred, unless a sufficient performance guarantee, such as a letter of credit, has been provided to the Town for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Town Board. The Town Board may waive the requirement for such performance guarantee if, in its discretion, it determines that the guarantee is not needed.
3. Unless work has materially commenced in accordance with the final site plan within one year from the issuance of the building permit authorizing such work, or within thirty-six months of the date the Planning Board gave final site plan approval, whichever is earlier, not only the building permit but the site plan approval (both final and preliminary) shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the granting of any site plan approval. However, in accordance with the Town’s Stormwater Local Law, any site Stabilization or Stormwater Management Practices shall be maintained or continued as required by such Stormwater Local Law, any approved SWPPP, any SPDES permit(s), and related laws, regulations, and permits of the

State of New York or the Town of Danby. The Planning Board, upon request of the applicant, after a public hearing, and upon a finding that the imposition of the time limits set forth above would create an undue hardship on the applicant, may extend the time limits for such additional periods as the Planning Board may reasonably determine. An application for such extension may be made at the time of filing of the original application or at any time thereafter up to, but no later than, six months after the expiration of the time limits set forth above. For the purposes of this section, work will not have “materially commenced” unless, at a minimum, (i) a building permit, if required, has been obtained; (ii) construction equipment and tools consistent with the size of the proposed work have been brought to and been used on the site; and (iii) substantial excavation (where excavation is required) or significant framing, erection, or construction (where excavation is not required) has been started and is being diligently pursued. ~~{2-10}~~

Section 807 - FAILURE OF TIMELY ACTION BY TOWN BOARD OR PLANNING BOARD. The failure of the Town Board or the Town Planning Board to act within the required time periods set forth in this ~~Ordinance~~ Local Law shall not constitute an approval of the proposed project but shall subject such Board to appropriate legal action by any applicant who is aggrieved by the failure to so timely act.

Section 808 - SOLAR ENERGY FACILITY ~~{7-17}~~

1. Application Requirements. The Development Review Application must be accompanied by all the appropriate application fees, forms, and number of copies of all plans and supporting documentation, including but not limited to the following:
 - a. In fulfilling the requirements of the State Environmental Quality Review Act (“SEQRA”), the Planning Board may require an Environmental Assessment Form (“EAF”) for the proposed Solar Energy Facility. The Planning Board may require submittal of a more detailed visual analysis based on the information in, or analysis of, the EAF.
 - b. Evidence that a copy of the Development Review Application and submittals outlined below has been submitted to the appropriate Fire Chief (Danby Fire District or West Danby Fire Department). All means of shutting down the photovoltaic solar energy system must be clearly marked on the Site Plan and building permit applications. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan.
 - c. Site Plan of the Solar Energy Facility by a Registered Professional Engineer licensed in the State of New York, at a scale of one-inch equals forty feet (1” = 40’) showing the proposed layout of the system, in accordance with the requirements of Article VII and this section, including, without limitation:
 - i. North arrow and context map of development within 100 feet of the site, including location and scale of principal buildings;
 - ii. Property boundaries and physical features, including roads;
 - iii. Name/Description and tax parcel number of project;
 - iv. Topography, proposed changes to the landscape of the site, grading, vegetation clearing, including proposed drainage;
 - v. The zoning district, dimension of lots, property lines, and adjacent rights-of-way on the subject property;

- vi. Location of existing and proposed structures and site ingress and egress points, including setbacks where applicable;
- vii. Sign(s) location(s);
- viii. The location, type, and intensity of any lighting on the site;
- ix. The location, nature and extent of any existing and proposed fencing, landscaping, and screening;
- x. The location and nature of any proposed utility easements; and
- xi. Identification of areas of potential environmental sensitivity, including onsite or nearby Unique Natural Areas; slopes greater than 15%; floodplains; historic sites; airports; government lands; conservation easements; trails; parkland; prime soils; and designated wetlands.
 - a. Plans or drawings of the Ground-Mounted Solar Photovoltaic Installation prepared by a Registered Professional Engineer licensed in the State of New York, showing the proposed layout of the system and any potential shading from nearby structures or vegetation.
 - b. One- or three-line electrical diagram detailing the Ground-Mounted Solar Photovoltaic Installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
 - c. Documentation of solar collector type including but not limited to equipment specification sheets for all solar panels and collectors, significant components, mounting systems, and inverters that are to be installed as well as proposed solar energy production capacity design level proposed for the Solar Energy System and the basis for the calculations of the area of the Solar Energy System's capacity.
 - d. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed installation.
 - e. An operation and maintenance plan, including description of continuing Solar Energy Facility maintenance and property upkeep, such as mowing and trimming, safe access to the installation, as well as general procedures for operational maintenance of the installation.
 - f. A Stormwater Pollution Prevention Plan (SWPPP) as required by the Stormwater Management and Erosion and Sediment Control Local Law.
 - g. Name, address and contact information for the proposed system installer.
 - h. Proof of liability insurance. The owner or operator of the Solar Energy Facility shall provide the Town Clerk with a certificated of insurance showing that the property has sufficient liability coverage pursuant to industry standards.
 - i. A submission that clearly delineates the party responsible for decommissioning at the end of the life of the system and in the event the owner of the system abandons the system for any reason. Examples of such a document are a surety bond or securitization obligation.
- i. A Decommissioning plan as set forth in Article VII, Section 714, Subsection 3. b vi: "Abandonment and Decommissioning."
2. Completeness Review. The Planning Board shall, within thirty (30) calendar days of the receipt of the application by the Town Clerk, determine whether the application is complete or incomplete and shall notify the applicant in writing by mail.
 - a. Incomplete Applications. If the Planning Board determines the application to the incomplete, the Board shall provide the applicant with a written explanation as to why the

application is incomplete and request the information necessary to complete the application. Any additional information submitted by the applicant starts a new thirty (30) calendar day Completeness Review.

b. Complete Applications. When the Planning Board determines the application to be complete, the Board shall notify the applicant in writing.

3. Upon the Applicant's written request submitted as part of the application, the Planning Board may waive any requirements.

4. Approval Standards. The Town of Danby Planning Board must make findings of fact on the following criteria:

a. Appearance and Buffering:

i. The Solar Energy Facility must have the least visual effect reasonably practicable on the environment, as determined by the Planning Board. The determination must be based on site specific conditions including topography, adjacent structures, and roadways. Solar Energy Facilities must avoid clearing extensive areas of forest. Reasonable efforts must be made to minimize visual impacts by preserving natural vegetation and providing dense evergreen landscape screening to abutting residential properties and roads, yet screening should minimize the shading of solar collectors.

ii. Fences or walls may not be constructed of chain link; vinyl; barbed wire; concertina wire; razor wire; electrically charged wire; railroad ties; standard, fluted, or split face concrete masonry units (CMU); scrap metal; tarps; or any other material determined by the Zoning Enforcement Officer to be detrimental to the public health, safety, and welfare.

iii. Any exterior lighting must not create unnecessary glare, sky glow, or light trespass, must have the least visual effect practical on the contiguous properties and must be approved by the Planning Board. Where practicable, lighting of the Solar Energy Facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

iv. The Planning Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.

v. The Town, at the expense of the Applicant, may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting Site Plan approval have been met, including whether the Applicant's conclusions regarding safety analysis, visual analysis, structural inspection, and stormwater management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

5. No Site Plan approval or renewal thereof or amendment of a current Site Plan approval relating to a Solar Energy Facility may be granted by the Planning Board unless the Applicant demonstrates that such Solar Energy Facility:

a. Conforms to all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.

b. Is designed and constructed in a manner that minimizes visual impact to the extent reasonably practicable.

c. Complies with all other requirements of the Town of Danby Zoning Ordinance Local Law and applicable Design Guidelines unless expressly superseded herein.

- d. Conforms with all adopted plans of the Town of Danby.
- e. Does not exceed twenty (20) feet in height.

ARTICLE IX: SPECIAL PERMITS

Section 900 - GENERAL PROVISIONS.

- 1. **PURPOSE.** The purpose of this Article is to set forth regulations, procedures, and conditions for establishing facilities and activities which, because of their nature, location, or effect on the surrounding environment and the quality of the community, warrant special evaluation of each individual case.
- 2. **INITIAL AUTHORITY TO GRANT SPECIAL PERMITS.** The initial authority to grant Special Permits is delegated by the Town Board to the Planning Board under the conditions and procedures set forth in this Article when the proposed development is listed in the zone regulations as permitted with a Special Permit. ~~Granting or denial of a Special Permit may be appealed to the Town Board in the manner set forth below.~~
- 3. **EXEMPTIONS.** Any change which does not involve any new facility or activity or addition thereto, nor any structural alteration, is exempt from the requirements for Special Permit and subject only to Building and Zoning Permit procedures.
- 4. **EXPIRATION.** A Special Permit authorizes only the proposed work or the proposed activity specified on the Special Permit. The permit expires if the permitted activity ceases for more than six months for any reason whatever. The permit expires for any proposed work if the work has not commenced within one year.
- 5. **CONDITIONS ATTACHED TO THE ISSUANCE OF SPECIAL PERMITS.** In granting any Special Permit, the Planning Board may place such reasonable conditions and restrictions as are directly related to and incidental to the proposed Special Permit. Such conditions may include, but are not limited to, the following:
 - a. Placing a time limit on the duration of the Special Permit, after which time limit the Special Permit would expire unless a renewed Special Permit were granted by the Planning Board.
 - b. Requiring a periodic status report from the grantee of the Special Permit or his agent, or requiring periodic inspections by the Zoning Enforcement Officer, so that the Planning Board may be apprised of the compliance of the involved property with the terms of the Special Permit, this ~~Ordinance~~Local Law, and other regulations.
- 6. **EXISTING VIOLATIONS.** No Special Permit will be granted for a lot where there

exists a violation of this ~~Ordinance~~Local Law at the time of application.

7. STORMWATER. ~~[2-10]~~ No Special Permit shall be issued unless the owner or applicant shall demonstrated compliance with the Town's Stormwater Local Law, including, but not limited to, the submission and approval of any SWPPP, the issuance of such permits or approvals as required under such Stormwater Local Law, and the institution of long term maintenance and operation protocols relating to any Stormwater Management Practices, including, but not limited to, the execution of Maintenance Agreements or the Dedication of facilities, where appropriate. ~~[2-10]~~.

Section 901 - GENERAL CONSIDERATIONS REQUIRED FOR ALL SPECIAL PERMITS AND SITE PLAN REVIEW. No Special Permit will be granted by the Planning Board unless the site plan meets the requirements for approval of same set forth above and unless the requested activity or facility meets the following requirements:

1. It will not be detrimental to or endanger the public health, safety, or general welfare;
2. It will not be injurious to the use and enjoyment of other property in the vicinity or neighborhood;
3. It will not impede the orderly development of the vicinity or neighborhood;
4. The street system and off-street parking facilities can handle the expected traffic in a safe and efficient manner;
5. ~~[2-10] Natural surface water drainageways are not adversely affected, and all Surface Waters and Wetlands are not adversely affected by Stormwater Runoff, Sediments, Sedimentation, Erosion, Point Source Pollution, Nonpoint Source Pollution, Pollutants of Concern, and Stormwater Hotspots, as such terms are defined and used in the Town's Stormwater Local Law.~~ 5. Natural surface water drainageways are not adversely affected, and all Surface Waters and Wetlands are not adversely affected by Stormwater Runoff, Sediments, Sedimentation, Erosion, Point Source Pollution, Nonpoint Source Pollution, Pollutants of Concern, and Stormwater Hotspots, as such terms are defined and used in the Town's Stormwater Local Law. ~~[2-10]~~
6. Water and sewerage or waste disposal facilities are adequate;
7. The general environmental quality of the proposal, in terms of site planning, architectural design, and landscaping, is compatible with the character of the neighborhood;
8. Lot area, access, parking, and loading facilities are sufficient for the proposed activities;

9. The requested activity or facility conforms in all other respects to the applicable regulations of the Zone in which it is located;
10. The applicant has shown that steps will be taken where necessary to meet all applicable general regulations; and
11. The site plan, when required, has been approved in accordance with the provisions for approval of site plans set forth above.

~~Section 902 – MISCELLANEOUS CONSIDERATIONS FOR SPECIAL PERMITS AND SITE PLAN REVIEW. In addition to the General Considerations Required for all Special Permits, the Planning Board may consider other factors, which may include but are not limited to the following:~~

~~1. FOR ANY LOT THAT INCLUDES ONE OR MORE DWELLING UNITS FOR RENTAL:~~

~~a. The presence of appropriate terms between the owner of the property and any tenants related to noise control, animal control, parking, exterior maintenance, and interior maintenance.~~

~~b. The adequacy of provisions for enforcement of such terms by the owner of the dwelling or the owner's designated agent, and, failing adequate enforcement by the owner, provisions for the Town, at its option, to enforce such terms at the owner's expense.~~

~~2. FOR A PERMANENT OR TEMPORARY SECOND DETACHED DWELLING ON AN INDIVIDUAL LOT:~~

~~a. The adequacy of the lot area for each dwelling unit Section 902.~~

~~b. If the second dwelling is temporary, the adequacy of terms related to removal of such dwelling when it is no longer needed for its intended purpose.~~

~~Section 903 - ADDITIONAL SITE PLAN REVIEW CONSIDERATIONS FOR COTTAGE INDUSTRY. No Site Plan Approval shall be granted by the Planning Board for a Cottage Industry unless such use meets the following additional requirements.~~

1. Performance. It shall produce no offensive noise, vibration, smoke, dust, odor, heat, glare or electronic disturbance beyond the property it occupies.
2. Storage. It shall not entail the outdoor, unscreened storage of materials, equipment, or other items related to the industry, except that outdoor display of products may occur if permitted by the Planning Board in the course of ~~granting a Special Permit~~

~~and~~ approving the site plan, if the Planning Board finds that such outdoor display does not significantly alter the character of the neighborhood. Outdoor storage is considered screened if it is not visible from adjacent properties or public roadways.

3. Parking. No more than one commercial vehicle shall be in uncovered parking. All parking needs shall be met off-street, except that newly designated, constructed, or established standing or parking spaces within the street or road right-of-way for occasional standing or parking spaces within the street or road right-of-way for occasional standing, parking, or for pick-up or delivery of supplies and products may be permitted, as part of an approved site plan, and subject to the approval of the highway department or other authority having jurisdiction.
4. Signs. The provisions for advertising sign boards shall apply except as modified herein for Cottage Industry. Any signs on the property identifying the occupation shall not exceed 15 cumulative square feet in signboard area, except that the signboard area of a two-sided sign shall be based on the area of one side. Any such signs shall be non-flashing, and, if illuminated, shall have the lights shielded as much as practicable to direct the lights only at the signs.

Section ~~904~~903 - PROCEDURE FOR SPECIAL PERMITS.

1. Special Permit applications are taken by the Zoning Enforcement Officer. When the Zoning Enforcement Officer finds that the application is complete for the particular type of Special Permit the application and associated documents are forwarded to Planning Board. The application shall include a site plan in the form required by this ~~Ordinance~~Local Law above, with such variations or modifications from such requirements as the Planning Board may, in the particular circumstances, permit by waiver.
2. The Planning Board shall hold a public hearing to consider the Special Permit, and shall subsequently issue a decision, pursuant to the same procedures (except as modified by this ~~Ordinance~~Local Law) and within the same time limits as are set forth in the provisions of Section 801, "Site Plans Related to Special Permits", and Section 804, "Public Hearing Notification Procedures for Site Plans" within this ~~Ordinance~~Local Law.
3. In making its decision the Planning Board shall determine whether the proposed development satisfies the conditions and requirements set forth in this ~~Ordinance~~Local Law and its decision shall be in accordance with the requirements of this ~~Ordinance~~Local Law.
- ~~4. In case of a protest against the proposed facility or activity signed by owners of twenty percent or more of the area of the land within 100 feet of the lot on which the proposed facility or activity is to be located, a Special Permit may not be issued by the Planning Board except by a favorable vote of five members of the Planning Board.~~

54. Upon approval of any Special Permit application, the Zoning Enforcement Officer shall issue the Special Permit.

Section 905904 - FLOOD HAZARD AREAS. No Special Permit shall be granted and no construction, alteration, or development shall occur in an area denominated as an area of special flood hazard in the Town of Danby in accordance with the appropriate flood insurance rate maps prepared by the Federal Emergency Management Agency for the Town of Danby unless and until such construction is in accordance with any local law of the Town of Danby whether now in existence or hereafter enacted, relating to flood damage protection. Without limiting the foregoing, no development, construction, or alteration requiring a development permit or building permit pursuant to the provisions of such local law shall commence until the requisite permit is obtained. In any event no use shall be permitted in an area denominated as a flood hazard area that is otherwise not permitted in the underlying zoning district for that area.

Section 906905- ENVIRONMENTAL REVIEW. No Special Permit shall be granted and no construction, alteration, or development shall occur if such permit, construction, alteration or development is subject to SEQR or subject to any local law now or hereinafter adopted by the Town of Danby, until all procedures required for environmental review pursuant to such laws are completed.

ARTICLE X: NON-CONFORMING USES.

Section 1000 - NONCONFORMING LOTS OF RECORD. In any Zone in which one single- or two- unit dwelling is permitted, a one unit dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption of this OrdinanceLocal Law (or adoption of an amendment to this OrdinanceLocal Law changing the lot to a non-conforming lot), provided such lot was a valid, lawfully existing lot at the time the OrdinanceLocal Law was adopted (or so amended). No minimum yard dimensions on any such nonconforming lot shall, however, be reduced, and no height restrictions or parking requirements may be changed without a variance.

Section 1001 - NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this OrdinanceLocal Law, a lawful use of land exists that is made no longer permissible under the terms of this OrdinanceLocal Law as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. Such nonconforming use must not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this OrdinanceLocal Law;
2. Such nonconforming use must not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or

amendment of this OrdinanceLocal Law; and

3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land must conform to the regulations specified by this OrdinanceLocal Law for the Zone in which such land is located.

Section 1002 - NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this OrdinanceLocal Law that could not be built under the terms of this OrdinanceLocal Law by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity;
2. Should such structure be destroyed by any means to an extent of more than 75 percent of its replacement cost at time of destruction as estimated by the Zoning Enforcement Officer, it must not be reconstructed except in conformity with the provisions of this OrdinanceLocal Law; and
3. Should such structure be moved for any reason for any distance whatever, it must thereafter conform to the regulations for the Zone in which it is located after it is moved.

Section 1003 - NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this OrdinanceLocal Law that would not be allowed in the Zone under the terms of this OrdinanceLocal Law, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this OrdinanceLocal Law in the zone in which it is located may be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this OrdinanceLocal Law, but such use must not be extended to occupy any land outside such building;
3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use must thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed;

4. When a nonconforming use of a structure, or structure and land in combination, ceases for twelve consecutive months, the structure or structure and land in combination must not thereafter be used except in conformance with the regulations of the zone in which it is located; and
5. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure eliminates the nonconforming status of the land;
6. Where a non-conforming use exists in an area that has been or now requires site plan approval for any change of use, the non-conforming use may not be changed to any other use permitted in the zone until site plan approval has been obtained pursuant to the terms of this [OrdinanceLocal Law](#).

Section 1004 - CONTINUATION OR RESUMPTION OF FARM USES.

Notwithstanding the provisions above, any land and associated structures that have been used at any time for farming, whether prior to or subsequent to the enactment of this [OrdinanceLocal Law](#), may be returned to a farm use at any time.

Section 1005 - CONTINUATION OF CONSTRUCTION.

Nothing in this [OrdinanceLocal Law](#) is deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this [OrdinanceLocal Law](#) and upon which actual building construction has been diligently prosecuted and completed within two years after the effective date of the adoption or amendment making the use non-conforming.

Section 1006 - ALTERATIONS IN USE. Except as prohibited above, and subject to the requirement of obtaining site plan approval if required, a non-conforming use may be changed to another non-conforming use of the same or more restrictive classification and when so changed to a more restrictive use, it shall not again be changed to a less restrictive use. The order of the classification of restrictiveness from the most restrictive to the least restrictive shall be as follows:

- Aquifer High Vulnerability (AHV) Overlay Zone
- Stream Setback Overlay Zone
- Habitat Corridor Overlay Zone
- High Priority Preservation Zone
- Rural 1
- Rural 2
- Low Density Residential Zone
- Agricultural Support Commercial Uses Floating Zone
- Mobile Home Park Zone
- Hamlet Neighborhood Zone
- Hamlet Center Zone
- [Commercial A](#)
- [Commercial B](#)
- [Commercial C](#)

Planned Development Zone

Section 1007 - RESTORATION. Nothing herein shall prevent the continued use and substantial restoration and continued use of a non-conforming building damaged less than seventy-five (75) percent of the replacement cost value of such building immediately prior to such damage, by fire, flood, earthquake, act of God, or act of the public enemy, provided that such restoration is completed within two years of the damage and provided that the use of the building and the manner in which it was used prior to the loss is recommenced within two years of the damage. This time limit may be extended by the Board of Appeals in cases of practical difficulty or unnecessary hardship. If there is a dispute as to the extent of damage, the same shall be determined initially by the Zoning Enforcement Officer whose decision may be appealed to the Board of Appeals.

Section 1008 - BOARD OF APPEALS DETERMINATION. The Board of Appeals shall have the jurisdiction to hear and determine any claims as to whether a particular use is a valid non-conforming use, or whether a non-conforming use has been improperly extended or enlarged, or any other matter relating to the non-conforming uses. Such jurisdiction may be exercised by an appeal from a decision of the Zoning or Code Enforcement Officer as hereinafter provided. Any such application to the Board of Appeals shall be made on such forms and contain such information as the Board and/or the Code or Zoning Enforcement Officer may determine and shall be delivered to the Code or Zoning Enforcement Officer for submission to the Board.

Section 1009 - STORMWATER REQUIREMENTS. ~~{2-10}~~ The requirements of the Town's Stormwater Local Law shall apply to each, any, and all non-conforming uses and the continuation, reconstruction, replacement, and/or any enlargement of non-conforming uses of lands to the extent required by the express terms of said Stormwater Local Law. ~~{2-10}~~

ARTICLE XI: ADMINISTRATION

Section 1100 – ENFORCEMENT. ~~{2-11}~~ This ~~ordinance~~Local Law shall be enforced by persons designated by the Town Board (herein referred to as the Zoning Enforcement Officer and Code Enforcement Officer) who shall not grant any Building Permit, Certificate of Occupancy, Temporary Certificate, Certificate of Compliance, or Operating Permit (as such permits and certificates are defined and provided for in Town of Danby Local Law No. 1 of 2007, “A Local Law Amending Local Law No. 3 of 1984, Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code”) which would be in violation of any provision of this ~~ordinance~~Local Law, except under a written order of the Board of Zoning Appeals. ~~{2-11}~~

Section 1101-~~12-11~~ BUILDING PERMIT, CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE, CERTIFICATE OF COMPLIANCE, OPERATING PERMIT.

1. Notwithstanding various additional requirements of this ~~ordinance~~Local Law, (including but not necessarily limited to Site Plans and Special Permits) the definitions of Building Permit, Certificate of Occupancy, Temporary Certificate, Certificate of Compliance, and Operating Permit, and the provisions and requirements for same, are provided in Town of Danby Local Law No. 1 of 2007, "A Local Law Amending Local Law No. 3 of 1984, Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code," hereafter referred to as the "Town's Code Enforcement Law."
2. Each property owner shall, with respect to his or her property, be responsible for compliance with all terms of this Zoning ~~Ordinance~~Local Law, the Town's Code Enforcement Law, and the Town's Stormwater Local Law, each and all as now exist or as hereafter amended. ~~{2-11}~~

Section 1102 - SPECIAL CONDITIONS FOR DOUBLEWIDE MOBILE HOMES.

No Building Permit shall be issued for the erection of a doublewide mobile home unless the home meets the requirements for approval of same set forth above, and unless the proposed construction and installation of the home meets the following requirements along with all other pertinent provisions of this ~~ordinance~~Local Law:

1. The proposed mobile home shall comply with all federal when applicable, and if not applicable, state and/or local standards, codes and regulations for mobile homes and will have all required certifications indicating such compliance.
2. The mobile home will be mounted on a permanent perimeter or pier system foundation consisting of cinder blocks, concrete, or a substantially similar construction material, with appropriate footings of concrete below the frost line. Tiedowns or ground anchors shall be installed. All wheels and axles will be removed.
3. Any non-perimeter foundation system shall be enclosed by skirting securely fastened and extending from the outside wall of the home to ground level around the entire home. The skirting shall be constructed of sturdy material. The material and its installation shall be capable of withstanding extreme weather conditions. The finished appearance of the skirting shall resemble the appearance of a perimeter masonry foundation customarily used for homes constructed entirely on site.
4. The mobile home, when erected, shall be at least 24 feet wide.
5. All wheels and axles will be removed.

Section 1103 - BOARD OF APPEALS. There is hereby established a Board of Appeals which shall function in a manner prescribed by Sections 267, 267-a, 267-b, and 267-c of Article 16 of the Town Law of the State of New York except as the same are superseded by the provisions below.

1. **BOARD MEMBERS.** There shall be five members of the Board of Appeals. The members of the Board of Appeals shall be residents of the Town of Danby and shall be appointed by the Town Board to serve for terms as prescribed by law. No person who is a member of the Town Board shall be eligible for membership on the Board of Appeals.
2. **OFFICERS.** The Town Board shall designate the Chairperson of the Board of Appeals. The Board of Appeals shall choose a Vice Chairperson, who shall preside in the absence of the Chairperson. In the absence of both the Chairperson and Vice Chairperson, the Board of Appeals shall choose one of its members as Acting Chairperson. Such Chairperson, or Acting Chairperson, may administer oaths and compel the attendance of witnesses. The Board of Appeals shall appoint a Secretary who shall take minutes of all its meetings and keep its records. Said Secretary need not be a member of the Board.
3. **TRAINING REQUIREMENTS.** ~~[2-07]~~
 - a. Each member of the Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subsection. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
 - b. To be eligible for reappointment to the Board of Appeals, such member shall have completed the training promoted by the Town pursuant to this subsection.
 - c. The training required by this subsection may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
 - d. No decision of the Board of Appeals shall be voided or declared invalid because of a failure to comply with this subsection. ~~[2-07]~~
4. **RULES AND REGULATIONS.** The Board of Appeals shall ~~adopt~~recommend

from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ~~ordinance and all its~~law. Such rules require the approval and adoption of the Town Board (See e.g., Town Law 271(13)) and all Board of Appeals resolutions and orders shall be in accordance therewith.

5. APPEALS TO THE BOARD. Any person aggrieved by any decision of any officer of the Town charged with enforcement of this ~~ordinance~~Local Law may take an appeal to the Board of Appeals. The Board of Appeals shall, in accordance with the provisions contained in this ~~Ordinance~~Local Law, and in accordance with the provisions of Town Law Sections 267 et. seq. (except as the same are superseded by the provisions of this ~~Ordinance~~Local Law), hear and determine appeals from any refusal of a building permit or certificate of occupancy by the person designated by the Town Board, or review any order or decision of said person where such order or decision is based upon the requirements of this ~~ordinance~~Local Law. Such Board shall also hear and determine any other matter referred to it by the provisions of this ~~Ordinance~~Local Law or any other law, regulation or resolution.
6. PROCEDURES FOR REVIEWING APPEALS. Before issuing any final determination or decision on an appeal, the Board of Appeals shall hold a public hearing as provided in Town Law Sections 267 et. seq. Notice of any such public hearing shall be mailed to the applicant and shall be posted and published in the official Town newspaper at least 5 days prior to the date of such hearing, such notice to include the nature of the appeal and the time and place at which it will be heard.
7. Notice of hearing as described above and as provided in Town Law are the only notifications required. However, in order to promote public information, it is a policy of the Town that a similar notice of any such public hearing be mailed or delivered by the appellant to all owners of property within 500 feet of the boundaries of the property under consideration. The Board of Appeals may, in its discretion, require that property owners within a distance of more than 500 feet of such boundaries be notified, and/or may direct Town staff to conduct the notification. Such mailing or delivery shall occur no less than 5 days prior to the date of the public hearing. The applicant (or the Town staff conducting the notification) shall file proof of such mailing or delivery with the Board of Appeals no later than the date of the hearing.
8. Failure to notify property owners near a site for which a public hearing is scheduled, shall not be a jurisdictional defect and any action taken by any board, employee, or agent of the Town in connection with such hearing shall not be nullified or voidable by reason of the failure to provide such notification. However, the failure to provide such notification may be grounds, should the Board of Appeals in its discretion so determine, to decline to conduct a scheduled public hearing. The Board of Appeals may, on good cause shown, waive the above-described policy of property owner notification.

Section 1104 - VARIANCES. ~~[2-10]~~The Board of Appeals, on appeal from the decision

or determination of the Code or Zoning Enforcement Officer, shall have the power to grant use and area variances (as the same are defined in Town Law Section 267 et. seq.), but no use or area variance may be granted unless compliance with the Town's Stormwater Local Law, if applicable, has been duly demonstrated by the applicant/appellant. ~~[2-10]~~

Section 1105 – PLANNING BOARD. ~~[2-07]~~ There is hereby established a Planning Board, which shall function in the manner prescribed by law (except as the same may be superseded by the terms of this ~~ordinance~~Local Law as set forth below).

1. Member Requirements and Appointment. There shall be seven (7) members of the Planning Board. The Planning Board members shall be residents of the Town of Danby, and all such members shall be appointed by resolution of the Town Board. Planning Board members shall serve for staggered terms of seven years. When vacancies occur in said Planning Board by expiration of the term of a member, the term of the successor member shall be for seven (7) years. When vacancies occur in said Planning Board for a reason other than expiration of the term of a member, the successor member shall serve for the unexpired term of the member who is replaced. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.
2. Agricultural Member(s). To the extent reasonably possible, and in the sole discretion of the Town Board, one or more of the members may be an Agricultural Member as defined in Section 271 of the Town Law, which currently provides that an Agricultural Member derives ten thousand dollars or more annual gross income from agricultural pursuits in the Town. For purposes of this subdivision, the term “agricultural pursuits” means the production of crops, livestock and livestock products, aquacultural products, and woodland products as defined in Section 301 of the Agriculture and Markets Law.
3. Alternate Members.
 - a. ~~[2-11]~~The Town Board may additionally appoint two (2) alternate members of the Planning Board to substitute, on an alternating basis, for a regular member of the Planning Board, in the event that such regular member is unable to participate in a particular Planning Board meeting because of a conflict of interest, illness, extended (longer than one month) absence from the Town, or is otherwise disqualified ~~[2-11]~~
 - b. Alternate members shall be appointed by resolution of the Town Board for two (2) year terms. The first regularly appointed alternate members shall be appointed at the Town Board's Organizational Meeting in January 2008. Prior to that time, the Town Board shall appoint by resolution interim alternate members to serve from after the effective date of this local law through December 2007. In appointing both regular and interim alternate members, the Town Board shall also designate the order in which said alternate members will serve, and thereafter the alternate members shall

serve on an alternating basis at any such Planning Board meeting where an alternate member is required in accordance with Part (a) of this Subsection.

- c. The Planning Board Chairperson shall notify the designated alternate member to substitute for a regular member in the event a regular member is unable to participate because of any reason enumerated above. When so designated, the alternate member shall possess all the powers and responsibilities of a regular member, and such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
- d. All provisions of this Section 1105 relating to regular Planning Board member training and continuing education, attendance, conflicts of interest, eligibility, vacancy in office, and removal, shall also apply to alternate members. However, any such alternate member may not become a regularly appointed member of the Planning Board unless appointed by resolution of the Town Board pursuant to the provisions of Section 1105, Subsection 1.
- e. To the extent this Section is inconsistent with Town Law Section 271 (15) it is intended to supersede such section, in accordance with Municipal Home Rule Law Section 10 (1) (ii) d (3).

4. Training Requirements.

- a. Each member of the Planning Board shall complete a minimum of four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning, and traditional classroom training.
- b. To be eligible for reappointment to the Planning Board, such member shall have completed the training promoted by the Town pursuant to this subdivision.
- c. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
- d. No decision of the Planning Board shall be voided or declared invalid because of a failure to comply with this Subsection.

5. Chairperson and Secretary. The Town Board shall designate the Chairperson of the Planning Board. The Planning Board shall choose its own Vice-Chairperson who shall preside in the absence of the Chairperson. In the absence of both the Chairperson and Vice-Chairperson, the Planning Board shall choose one of its number as acting Chairperson. All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as the Planning Board may determine. Such Chairperson, or in his or her absence, Vice-Chairperson or acting Chairperson, may administer oaths and compel the attendance of witnesses. The Town Board may appoint a staff secretary to take minutes of Planning Board meetings, in the event there is not a staff secretary the Planning Board may appoint a member as secretary who shall take minutes of all its meetings and keep its records.
6. Removal of Members. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for the following reasons:
 - a. Four (4) or more absences. Each appointed member of the Planning Board is expected to attend all scheduled Planning Board meetings. Absence from four (4) or more such meetings shall be grounds for removal from the Planning Board.
 - b. Non-compliance with the terms of this Section 1105, including failure to meet the minimum training requirements set forth in Subsection 4.
7. Rules and regulations. The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction under this Section 1105 or any other statute, or under any local law or ordinance of the Town. Adoption of any such recommendations by the Town Board shall be by local law or ordinance.
8. The Planning Board shall, in accordance with the provisions of this ~~ordinance~~Local Law and in accordance with the provisions of Town Law Sections 271 through 279, hear and determine site plan approval requests, special permit requests, subdivision applications, and such other matters as may be referred to the Planning Board under this ~~ordinance~~Local Law or otherwise. In granting site plan approvals, special permits, subdivision approvals, or in taking any other actions in response to any application, the Planning Board may impose upon the applicant such conditions as are directly related to and incidental to the proposed use of the property for the period of time such special permit or other approval shall be in effect, the specified reasons for which conditions should be articulated on the record. Such conditions shall be consistent with the spirit of and intent of this ~~ordinance~~Local Law, and shall be imposed for the purpose of minimizing any adverse impact such permit or approval may have on the neighborhood or community.
9. The Planning Board, in making any determination shall have the powers granted to

planning boards by, and shall apply the procedures and criteria set forth in, this ~~ordinance~~Local Law, the laws of the State of New York, and any other law, ordinance, or resolution duly adopted at any time by the Town ~~[2-07]~~

Section 1106 - VIOLATIONS AND PENALTIES. Pursuant to Section 268 of the Town Law any person, firm, corporation or other entity violating any provision of this ~~ordinance~~Local Law shall be deemed guilty of an offense, punishable by a fine or imprisonment, or both, as set forth in Section 268 or any successor or replacement statutes. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this ~~ordinance~~Local Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

This Section shall apply to all violations irrespective of any other remedies against the violators contained in this ~~ordinance~~Local Law as authorized by state law.

ARTICLE XII: AMENDMENTS.

Section 1200 - AUTHORITY TO AMEND. The Town Board may from time to time on its own motion, or own petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this ~~ordinance~~Local Law in accordance with applicable law. Every such proposed amendment or change whether initiated by the Town Board or by petition shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. Unless otherwise permitted or required by law, the Town Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

1. By publishing a notice at least ten (10) days in advance of the time and place of such hearing in a paper of general circulation in the town.
2. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional State Park Commission having jurisdiction over such park or parkway at least ten (10) days prior to the date of such public hearing.
3. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, or town shall be given to the Clerk of such municipality at least ten (10) days prior to the date of such hearing.
4. A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any County shall be given to the Clerk of the Board of Supervisors of such County or other person performing like duties at least 10 days prior to the date of such hearing.

5. In case of a protest against such change signed by the owners of twenty (20) percent or more of the area of land included on such proposed change or of that immediately adjacent extending 100 feet therefrom or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

ARTICLE XIII: MISCELLANEOUS.

Section 1300 - INTERPRETATION OF ORDINANCELOCAL LAW. In their interpretation and application, the provisions of this ordinanceLocal Law shall be held to be minimum requirements necessary to accomplish the purpose of the ordinanceLocal Law. When requirements of this ordinanceLocal Law conflict with the requirements of other lawfully developed laws, rules, regulations or ordinances, the most restrictive or that imposing higher standards shall govern.

Section 1301 - VALIDITY. The invalidity of any section or provision of this ordinanceLocal Law shall not invalidate any other section or provisions thereof.

Section 1302 - EXISTING ZONING ORDINANCE AMENDED, RE-ADOPTED AND RE-ENACTED. The existing Zoning Ordinance of the Town of Danby, New York, as amended, is hereby re-enacted, re-adopted and amended, as a Local Law. This re-adoption, re-enactment and amendment shall not affect any pending or prevent any future prosecution of any action to abate any violation existing at the time this Ordinance is re-adopted, re-enacted and amended, if the use is in violation of the provisions of this ordinance as re-adopted, re-enacted and amended. Nothing herein shall be deemed to change the status of non-conforming uses created by virtue of the Zoning Ordinance previously in effect if such uses remain non-conforming under the provisions of this OrdinanceLocal Law, as re-adopted, re-enacted and amended.

Section 1303 - EFFECTIVE DATE. This ordinanceLocal Law shall be in force and effect immediately upon adoption and publication as provided by law.

ARTICLE XIV: TRANSFER OF DEVELOPMENT RIGHTS

Section 1400 – AUTHORITY. This article is adopted pursuant to § 261-a of the New York State Town Law and the Town of Danby Comprehensive Plan. All of the powers and conditions set forth in Town Law § 261-a are hereby adopted. The Danby Town Board hereby designates the Town of Danby Planning Board as the Town body authorized to implement the transfer of development rights program as set forth herein.

Section 1401 – PURPOSE. It is the intent and purpose of this article to implement the

land use policies set forth in the Town of Danby Comprehensive Plan with specific reference to protection of the lands located within the specified sending districts, the preservation of agricultural lands, the support of the existing agricultural industry, the preservation of rural character, the protection of open space, the maintenance of contiguous tracts of habitat, and the necessary and appropriate economic development of the community.

Section 1402 – TRANSFER OF DEVELOPMENT RIGHTS MAP. Pursuant to § 261-a, Subdivision 2b, of the New York Town Law, the relevant sending and receiving districts of the Town of Danby TDR Law shall be those areas specifically mapped in accordance with the stated goals of the Town of Danby Comprehensive Plan adopted by the Danby Town Board by resolution dated _____.

Section 1403 – PROCEDURE FOR DESIGNATING SENDING AND RECEIVING DISTRICTS.

1. Sending district. Prior to mapping a sending district, the Town Board shall determine:
 - a. That the sending district is consistent with a Comprehensive Plan pursuant to § 272-a of the New York State Town Law.
 - b. That the rules and regulations promulgated pursuant to the State Environmental Quality Review Act (SEQRA) have been complied with.
2. Receiving district. Prior to mapping a receiving area, the Town Board shall determine:
 - a. The effects of potential increased development which is possible under transfer of development rights will not have significant environmentally damaging consequences and such increased development is compatible with the development otherwise permitted by any municipality or agency thereof having jurisdiction to approve permissible development within the district.
 - b. That the receiving district is consistent with the Comprehensive Plan pursuant to § 272-a of the New York State Town Law.
 - c. That the rules and regulations promulgated pursuant to the State Environmental Quality Review Act (SEQRA) have been complied with.

Section 1404 – DESIGNATION OF SENDING AND RECEIVING DISTRICTS.

Pursuant to § 1402 and 1403 of this article, the following zoning use districts are hereby mapped as receiving districts for the following sending districts:

| Sending District | Receiving Districts |
|-------------------------|---|
| Rural 1 | Rural 1, Rural 2, Low Density Residential |
| Rural 2 | Rural 2, Low Density Residential |
| Low Density Residential | Low Density Residential |

Section 1405 – PROCEDURES FOR SELLING OF DEVELOPMENT RIGHTS AND CONVERSION TO PRESERVATION CREDITS.

1. Preservation credit certificate. A property owner may request preservation credit certificates from the Planning Board by submission of the following:

- a. A completed preservation credit certificate application (form available from the Town Planner);
 - b. Property survey showing existing conditions certified to the Town of Danby and the area to be preserved;
 - c. Current title commitment ~~prepared by a company licensed to do business in the County of Tompkins in a form and amount as approved by the town~~ and noting the Town of Danby as proposed insured;
 - d. Copy of deed;
 - e. Legal description of the area from which rights are to be severed;
 - f. Fee as established by the Town Board from time to time.
2. Upon the recording of the conservation easement in ~~the office of the County Clerk, or submission of the conservation easement to the Planning Board in recordable form~~ in a form and upon terms, conditions, covenants and restrictions as are approved by the town, encumbering all or part of a sending parcel and the provision of evidence of same to the Planning Board together with a current title insurance policy showing title insurance acceptable to the Planning Board in an amount equal to the value of the conservation easement and naming the Town of Danby as an insured, the ~~Planning Board Planner~~ shall issue a preservation credit certificate certifying that the holder is entitled to a specific number of preservation credits- and will file copies of this certificate with the Town's parcel records.

Section 1406 – ALLOCATION OF PRESERVATION CREDITS.

When an application for the allocation of preservation credits is made to the Planning Board, such Board shall calculate the total number of credits upon the real property within a designated sending area using a development yield factor. Development yield is established by multiplying the gross developable area of the parcel by the relevant development yield factor for the sending district. Developable area does not include slopes over 15%, wetlands, required stream buffers, or the required land area for any existing residential or commercial development. The development yield factor for all mapped sending areas shall be based on the developable area of ~~unimproved~~ real property as described in the table below, except that no allocation of preservation credits shall be made for the following:

1. Real property from which rights have been previously purchased, extinguished by conservation easement, or transferred.
2. Real property improved with any structure not an agricultural structure as defined herein, or any improvement, including golf courses.
- ~~3. Parcels of property less than seven acres in size.~~
- ~~4. Any land concerning which the Planning Board determines that the severing of development rights therefrom would be inconsistent with the goals and objectives set forth in the Comprehensive Plan.~~

| Sending Zone | Receiving Zone | Sending Acres Undeveloped Per Credit | Multiplier* | Max Residential Units/ <u>on</u> <u>receiving</u> <u>lot</u> including transfer |
|--------------|----------------|--------------------------------------|-------------|---|
| Rural 1 | Rural 1 | 10 | 1 | 10 |

| | | | | |
|-------------------------|----------------------------------|----|---|----|
| Rural 1 | Rural 2, Low Density Residential | 10 | 2 | 10 |
| Rural 2 | Rural 2 | 10 | 1 | 10 |
| Rural 2 | Low Density Residential | 10 | 1 | 10 |
| Low Density Residential | Low Density Residential | 5 | 1 | 4 |

* Multiplier shall be doubled when sending parcel has frontage on a low volume low maintenance road.

Section 1407 APPLICATION OF PRESERVATION CREDITS.

Preservation credits may be used to increase the development density within mapped receiving areas according to the procedures set forth herein. In its determination of the total development yield of a particular property upon which development rights are to be applied, the Planning Board shall consider the extent of natural features existing on the site, including, but not limited to, water surfaces and wetlands. Preservation Credits may be used to cluster residential dwelling units on a lot or to increase the number of lots allowed through Cluster Subdivision. Preservation Credits may also be used to increase the allowed area for commercial development with a conversion factor of one residential dwelling unit equal to 1000sqft of commercial development.

1. Rural 1 – Preservation Credits may be used to increase dwelling unit density within the Rural 1 zone up to a maximum of 10 residential units, or 10 subdivided lots per Parent Lot that is in existence at the time of adoption of the Transfer of Development Rights Law.
2. Rural 2 - Preservation Credits may be used to increase dwelling unit density within the Rural 2 zone up to a maximum of 10 residential units, or 10 subdivided lots per Parent Lot that is in existence at the time of adoption of the Transfer of Development Rights Law.
3. Low Density Residential - Preservation Credits may be used to increase dwelling unit density within the Low Density Residential zone up to a maximum of 4 residential units, or 4 subdivided lots per Parent Lot that is in existence at the time of adoption of the Transfer of Development Rights Law.

Section 1408 – ADMINISTRATION.

The Planning Board shall be the sole administrator of the procedures and functions associated with this article. The Planning Board shall:

1. Issue preservation credit certificates upon the recording of appropriate easements.
2. Keep records of, retain and catalog both issued and redeemed preservation credits certificates in a Town-managed database.
3. Prepare and distribute an annual report providing statistics on TDR program activity.
4. Discontinue the redemption of preservation credits upon the redemption of 1000 preservation credits anywhere within the Town, unless this provision is waived by the Town Board or this program is extended by local law.

5. Not permit an area encumbered by a conservation easement to be included in any development yield calculation for subdivision approval by the Town of Danby Planning Board.

ARTICLE XV: CLUSTER SUBDIVISION AND CLUSTER OF DEVELOPMENT RIGHTS

Section 1500 – PURPOSE. This article is intended to clarify the use of the Cluster Subdivision process as defined in the Town of Danby Subdivision Regulations. The Town Board has empowered the Planning Board to modify applicable provisions of the Zoning ~~Ordinance~~Local Law in the review and approval of Clustered Subdivision plats, as provided in Town Law Section 278 and as supplemented by the procedures and standards in the Subdivision Regulations. Applicants may use the Cluster Subdivision process in order to cluster development rights within a single parcel or building in addition to the right to use the Cluster Subdivision process to enable the creation of new parcels. Use of the Cluster Subdivision process to approve a plat that enables development rights to be concentrated on a single parcel rather than in multiple parcels will result in the adoption and filing of a Final Plat for that parcel that must show build and no-build areas and the future provision of any development rights related to the Parent Parcel as well as any Preservation Credits from a Transfer of Development Rights that may be applied. Final Plats must be filed with the County Clerk before building permits will be granted.