

Town of Danby Local Law No. 2 of 2007

A LOCAL LAW AMENDING THE ZONING ORDINANCE OF THE TOWN OF DANBY RELATED TO PERMITS TO BUILD, BOARD OF APPEALS, AND PLANNING BOARD

Be it enacted by the Town Board of the Town of Danby as follows:

Section 1. The Zoning Ordinance of the Town of Danby, adopted by the Town Board of the Town of Danby on December 11, 1991, and subsequently amended through May 11, 2005, is hereby further amended as set forth herein.

Section 2. Article XI, Section 1100 –ENFORCEMENT is hereby amended to read as follows:

“Section 1100 – ENFORCEMENT. This ordinance shall be enforced by a person designated by the Town Board (herein referred to as the 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, except under a written order of the Board of Zoning Appeals.”

Section 3. Article XI, Section 1101 – PERMIT TO BUILD is hereby deleted in its entirety, and replaced with a new Section 1101 to read as follows:

“Section 1101 - BUILDING PERMIT, CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE, CERTIFICATE OF COMPLIANCE, OPERATING PERMIT.

1. Notwithstanding various additional requirements of this ordinance, (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 “Amended Code Enforcement Law.”

2. Each property owner shall be responsible for compliance with all terms of this ordinance as well as the Amended Code Enforcement Law affecting his or her property.”

Section 4. Article XI, Section 1103 – CERTIFICATE OF OCCUPANCY is hereby deleted.

Section 5. Article XI, Section 1104 – BOARD OF APPEALS, is hereby renumbered as Section 1103 and is further amended by adding the following subsection after the current subsection number 2 (OFFICERS) and thereafter renumbering subsections 3 through 7 so that they are numbered 4 through 8:

“3. TRAINING REQUIREMENTS.

(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.”

Section 6. Article XI, Section 1105 – VARIANCES is hereby renumbered as 1104.

Section 7. Article XI is hereby amended by adding a new Section 1105 to read as follows:

“**Section 1105 – PLANNING BOARD.** 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 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. The Town Board shall 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.

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 Planning Board may appoint a 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 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 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, 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, the laws of the State of New York, and any other law, ordinance, or resolution duly adopted at any time by the Town.”

Section 8. Article XI, Section 1106 – VIOLATIONS AND PENALTIES is hereby renumbered as Section 1107.

Section 9. Partial Invalidity. If any provision of this local law is found to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provisions of this local law.

Section 10. Effective Date. This local law shall take effect 10 (ten) days after its publication in the official newspaper of the Town or on the date it is filed in the Office of the Secretary of State of the State of New York, whichever is later.

Adopted by the Town Board on February 12, 2007