

# Zoning Ordinance

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Town of Danby, New York

**Adopted by the Town Board  
of the  
Town of Danby  
December 11<sup>th</sup>, 1991**

**As Amended through September 12<sup>th</sup>, 2011**

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## **ARTICLE I: TITLE**

TOWN OF DANBY, NEW YORK, ZONING ORDINANCE

## **ARTICLE II: PURPOSE**

### Section 200 - PURPOSE

For the purpose of promoting the health, safety, morals, and the general welfare of the community, and 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 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 are to be interpreted as defined in Appendix I hereto and hereby made a part of this ordinance.

## **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. Low Density Residential Zone.
2. Medium Density Residential Zone.
3. High Density Residential Zone.
4. Commercial Target Area wherein the following may be located: Commercial Zone "A", Commercial Zone "B", and Commercial Zone "C".

5. Planned Development Zone.
6. Mobile Home Park Zone.

Section 401 - MAP. Said zones, except for the Commercial Target Area and Mobile Home Park Zones, are bounded as shown on a map entitled "Zoning Map Town of Danby," adopted December 11, 1991, and signed by the Town Clerk. Details of existing Commercial Zones and Planned Development Zones are shown in the "Supplement to Town of Danby Zoning Map showing Details of Commercial Zones and Planned Development Zones" dated December 11, 1991 accompanying the Zoning Map. Said map, map supplement, and all explanatory matter thereon and amendments thereto are hereby made a part of this Ordinance. The Commercial Target Area consists of all the Commercial Zones and all of the High Density Residential Zones shown on said map. Certain existing Planned Development Zones (formerly known as Planned Development Districts) are shown on said map. New Commercial Zones, Planned Development Zones, and Mobile Home Park Zones may be created as set forth in this Ordinance.

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 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 FAMILIES. No building shall hereafter be erected or altered to accommodate or house a greater number of families 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.

Section 505 - PRE-EXISTING LOTS. A small lot, which was a legal building lot before adoption of this Ordinance (or adoption of an amendment to this Ordinance changing the lot to a non-conforming lot) and which does not meet the minimum requirements of this Ordinance for the zone in which it is located at the time the Ordinance 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. 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 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 Ordinance 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 Ordinance, 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 Ordinance, 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 ordinance.

Section 509 - FENCES AND WALLS. The provisions of this ordinance 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 in a Residential or Commercial Zone, the yard width on the side street shall be the same as the required front yard for adjoining properties on the side street.

2. REAR YARD ON TRIANGULAR OR CORNER LOT.

Triangular lots and corner lots in Residential or Commercial Zones shall not require a rear yard.

3. MORE THAN ONE BUILDING ON A LOT.

When permitted by this Ordinance, when there is more than one principal building on a lot in any zone the space between the closest parts of such buildings must be at least equal to the sum of the side yards required by each building or the sum of the rear and front yards, as the case may be.

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 single dwelling, housing not more than two families.

Section 511 - NUMBER OF BUILDINGS ON A LOT. There shall not be more than one principal residential building on any lot unless a Special Permit for same is given by the Planning Board. When there is more than one principal residential building on a lot the space shall be as provided in Section 510 above with respect to yards. Each principal residential building shall have the equivalent minimum lot area per dwelling unit required for a single family dwelling.

Section 512 - ACCESSORY BUILDINGS.

1. No accessory buildings whether attached to or detached from the principal building shall occupy required front yard space or be closer than ten feet from side and rear lot lines.

2. Without limiting the foregoing no tool, garden, utility shed nor swimming pool shall be located closer than a minimum of ten feet from the rear property line in any residential zone and in any event such structure shall otherwise comply with the required side yard and all other requirements of this Ordinance.

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 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.

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

Section 515 - EXCAVATIONS, ABANDONED CONSTRUCTION AND DESTROYED BUILDINGS. The following rules, in addition to any other local rules (including the requirement to obtain a fill permit set forth below), state laws 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 building substantially damaged by any cause shall be demolished within one year after such damage occurs unless the reconstruction of said building shall have begun. 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, 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 for the work which must be done in order to satisfy this Section and further why any expense incurred by the Town Board in accomplishing such work should not be assessed by the Town Board against the real property of said owner. Upon the Board of Appeals determination that the work must be done in order to satisfy the requirements of the ordinance, 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.

4. The above remedy is not intended to limit or restrict any other remedies or recourse by the town against the violators of this section.

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, any residential zone, 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, 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, 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 517—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; 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, 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.”

Section 518—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]

## **ARTICLE VI: ZONE REGULATIONS**

Section 600 - 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. PERMITTED PRINCIPAL USES.

- a. One single-family or one two-family dwelling per lot provided that each dwelling unit is occupied by no more than one family.
- 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. PERMITTED ACCESSORY USES.

- a. Private garage, either attached or unattached to the principal building.
- 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 the dwelling.
- 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.

### 3. USES PERMITTED BY SPECIAL PERMIT 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. Other uses not specifically listed above but deemed by the Planning Board to be similar in nature and compatible with the purposes of the zone.

4. NUMBER OF LOTS ALLOWED [1-05]

a. On any parcel as it existed on the effective date of this amendment to this ordinance (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 600 of the Zoning Ordinance 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 (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 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.

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.

8. HEIGHT. Except as otherwise authorized under the terms of this Ordinance, no building shall exceed thirty-six feet in height from lowest exterior grade or forty feet in height from lowest interior grade. No structure shall exceed thirty-six 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 structures, however, shall exceed one hundred feet in height, or be located less than one hundred feet from any property line.

9. BUILDING AREA. The maximum Building Area shall not exceed twenty-five percent of the Lot Area.

Section 601 - MEDIUM DENSITY RESIDENTIAL ZONE. The purpose of the Medium Density Residential Zone is to maintain the residential character of certain areas of the Town, to provide a buffer or transition from the low density residential and agricultural areas to the high density residential areas and areas where commercial activities may be subsequently permitted.

1. PERMITTED PRINCIPAL USES. The permitted principal uses are the same permitted principal uses as are permitted in a low density residential zone.

2. PERMITTED ACCESSORY USES. The permitted accessory uses are the same uses as are permitted in a low density residential zone.

3. USES PERMITTED BY SPECIAL PERMIT ONLY.

a. The same uses as are permitted by Special Permit in a low density residential zone.

b. Other uses not specifically listed above but deemed by the Planning Board to be similar in nature and compatible with the purposes of the zone.

4. REQUIRED LOT AREA. [1-05] Except when approved as a Clustered Subdivision, lot area shall be not less than one and one-half acres with frontage of not less than one hundred fifty feet and a lot depth of not less than two hundred feet.[1-05]

5. YARDS.

a. Minimum front yard depth - fifty feet.

- b. Minimum side yard width - thirty-five feet.
- c. Minimum rear yard depth - fifty feet.
- 6. SIGNS. Signs are limited to the same as those permitted in a Low Density Residential Zone.
- 7. HEIGHT. Height limitations are the same as in the Low Density Residential Zone.
- 8. BUILDING AREA. Building area limitations are the same as in the Low Density Residential Zone.

Section 602 - HIGH DENSITY RESIDENTIAL ZONE. The purpose of the High Density Residential Zone is to provide for an area where more intense development is encouraged to occur in the general vicinity of through traffic areas and areas that are already intensively developed.

- 1. PERMITTED PRINCIPAL USES. The permitted principal uses are the same uses as are permitted principal uses in a medium density residential zone.
- 2. PERMITTED ACCESSORY USES. The permitted accessory uses are the same uses as are permitted in a medium density residential zone.
- 3. USES PERMITTED BY SPECIAL PERMIT ONLY.
  - a. Those uses permitted by Special Permit in a medium density residential zone.
  - b. Multiple-family dwellings.
  - c. Hotels, motels, and boarding homes.
  - d. Other uses not specifically listed above but deemed by the Planning Board to be similar in nature and compatible with the purposes of the zone.
- 4. REQUIRED LOT AREA. [1-05] Except when approved as a Clustered Subdivision, lot area shall be no less than one acre with frontage of not less than one hundred fifty feet and a lot depth of not less than two hundred feet; and if the area is served by public water, the lot area shall be not less than one half acre with frontage on a public street of not less than seventy-five feet and a lot depth of not less than one hundred fifty feet.[1-05]
- 5. YARDS.
  - a. Minimum front yard depth - fifty feet.
  - b. Minimum side yard width - twenty feet.
  - c. Minimum rear yard depth - fifty feet.

Notwithstanding the foregoing, if a multiple-family dwelling is permitted, the minimum yards shall be increased so that no structure on lots containing one or more multiple-family dwellings shall be located closer than eighty feet from any exterior property line, fifty feet from any public road right of way, or within thirty feet of any other structure on the lot.

6. SIGNS.

a. Same as those permitted in a medium density residential zone.

b. Motels, hotels, and boarding homes - an identification sign may be located on or attached to the principal facade of the building or located in the required yard space. If attached to the facade, such sign shall not exceed twenty-five percent of the facade area or fifty square feet, whichever is more restrictive. If free-standing, such sign shall not exceed fifty square feet in the aggregate. If illuminated, such sign shall be non-flashing.

7. HEIGHT. Height limitations are the same as in the Low Density Residential Zone.

8. BUILDING AREA. Building area limitations are the same as in the Low Density Residential Zone.

Section 603 - COMMERCIAL TARGET AREA. The purpose of establishing the commercial target area 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. Pending establishment of any commercial zone "A", "B", or "C", within the commercial target area, the land within said target area shall be governed by the existing residential district regulations.

The Town Board may establish a commercial zone "A", "B", or "C" anywhere in the commercial target area. The uses permitted in each of said commercial zones shall be as set forth below.

1. LOCATION OF COMMERCIAL TARGET AREA. The areas shown on the Town of Danby Zoning Map designated High Density Residential Zones are the Commercial Target Area.

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. PERMITTED PRINCIPAL USES IN A COMMERCIAL ZONE "A". All permitted principal uses that are explicitly permitted in High Density Residential Zones without requiring a Special Permit 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) Smoke shop not larger than 5,000 square feet.
- viii) 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.
- ix) Horticultural nurseries.

d. USES PERMITTED IN A COMMERCIAL ZONE "A" BY SPECIAL PERMIT ONLY. The following uses are permitted upon approval of the site plan and issuance of a Special Permit by the Planning Board:

- i) Gasoline service station.
- ii) Public schools.
- iii) Child nursery or day care centers, and private schools including commercially oriented schools such as dancing, art, and business schools.
- iv) Churches and similar religious institutions.
- v) Community centers.
- vi) Tourist homes containing no more than ten beds.
- vii) Package liquor store not larger than 5,000 square feet.
- viii) Cottage industry
- ix) Cottage industry 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 Ordinance.

x) Other commercial uses upon the finding by the Planning Board that such use is of the same general character as those permitted and such use will not be detrimental to the other uses within the zone or to the adjoining land uses.

### 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 requiring a Special Permit or 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 smokeshops 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.

d. USES PERMITTED IN A COMMERCIAL ZONE "B" BY SPECIAL PERMIT ONLY. The following uses are permitted upon approval of the site plan and issuance of a Special Permit by the Planning Board.

i) Any uses permitted by Special Permit in a Commercial Zone "A".

ii) Motor vehicle sales facilities.

iii) Restaurants, including fast food restaurants.

iv) Indoor recreational facilities such as skating rinks, bowling alleys, etc.

- v) Clubs and fraternal organization facilities.
- vi) 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 ordinance.
- vii) Tourist homes with more than ten beds.
- viii) Package liquor stores larger than 5,000 square feet.
- ix) Taverns
- x) Other similar commercial uses upon the finding by the Planning Board that such use is of the same general character as those permitted and such use will not be detrimental to the other uses within the zone or to the adjoining land use.

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 a Special Permit or 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".

d. USES PERMITTED IN A COMMERCIAL ZONE "C" BY SPECIAL PERMIT ONLY. The following uses are permitted upon approval of the site plan and issuance of a Special Permit by the Planning Board.

i) Any use authorized upon such approval and issuance of such a permit in commercial zones "A" or "B".

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.
- xiii) Other commercial uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses.

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 ordinance.
- 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 family dwelling 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 any 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 604 - PLANNED DEVELOPMENT ZONES. [3-11] 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.

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 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 605 - 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, 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 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. In addition, each dwelling unit may be occupied by not more than

- a. one family, or
- b. one family plus no more than two boarders, roomers, lodgers, or other occupants.

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.

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 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 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.

## **ARTICLE VII: SPECIAL REGULATIONS**

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

Section 701 - LIMITATION OF USES WITHIN 200 FEET OF A RESIDENCE ZONE No theater, dance hall, tavern, restaurant, bowling alley, skating rink, veterinary hospital, kennel or other place for the boarding of animals, garage or shop for the painting or repairing of automobile bodies or fenders, or any other use causing loud or unusual noise, fumes, or odors shall be located within 200 feet of any Residence Zone.

Section 702 - ENCLOSURE OF EXCAVATION SITES [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 - ABANDONMENT OF QUARRIES, ETC. [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 - PUBLIC GASOLINE FILLING STATIONS AND GARAGES

1. No part or appliance of any building used as a garage or gasoline filling station shall be erected within seventy-five feet of any Residence Zone.
2. 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.
3. 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 at a location not visible from any point from any adjoining property.

Section 705 - 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 - OFF-STREET PARKING

1. **RESIDENTIAL PARKING SPACES.** In residence zones, 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.** Every building housing or designed to house more than two families shall provide in connection with it and on the same lot, two garage spaces, or off-street parking spaces, for motor vehicles for each dwelling unit provided in such building up to five dwelling units, and one garage or off-street parking space for each dwelling unit in excess of five. 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.** 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 - MOBILE HOMES AND MOBILE HOME PARKS

1. MOBILE HOMES. 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; 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.

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 permit; and

(c) Within twelve months after obtaining a permit 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 permit 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 granting of a Special Permit 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 primary dwelling on the property.

iii) Temporary housing for agricultural workers.

f. **CRITERIA FOR SPECIAL PERMITS FOR SINGLEWIDE MOBILE HOMES.** In considering an application for a Special Permit for a singlewide mobile home, the Planning Board shall consider the General Conditions Required for all Special Permits which are provided elsewhere in this ordinance. In granting such a Special Permit, the Planning Board may place conditions on such Permit to ensure that, for example, temporary housing is properly used as intended, and is removed when it is no longer needed.

**Section 708 - 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 - 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 - WIRELESS TELECOMMUNICATIONS 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 - ADULT ENTERTAINMENT BUSINESSES** Adult entertainment businesses, when permitted by other provisions of this ordinance, 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:

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.
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 primary 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 - STORMWATER REQUIREMENTS [2-10] The requirements of the Town's Stormwater Local Law be and hereby are incorporated into this Zoning Ordinance, 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]

#### **ARTICLE VIII: SITE PLAN REVIEW AND APPROVAL PROCEDURES.**

Section 800 - APPLICATIONS FOR REZONING Before an application is submitted to the Town Board for establishment of a Commercial "A", "B" and "C" Zone, a Planned Development Zone or a Mobile Home Park Zone, the establishment of which may be permitted under this Ordinance, 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.

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, 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 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. 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. Notice of any such hearing shall also follow the Public Hearing Notification Procedures for Site Plans set forth in this ordinance. 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 RELATED TO SPECIAL PERMITS When applying for a special permit 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, 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 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 the special permit itself) 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. 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 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 Commercial Zone, 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, 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. 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, area and location of parking, off-street loading and access drives, proposed signs and lighting, proposed landscaping, 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. 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 such hearing has been waived, 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. 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 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 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, (exterior work is anticipated to cost less than \$10,000.00), 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 without requiring approval of the modified site plan by the Planning Board. 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 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.

**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 5 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.
- 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.
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, 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]

#### 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 Code Enforcement Officer an irrevocable letter of credit in an amount to be approved by the Town 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 Town Board may waive these requirements (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 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.

### **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. Making the Special Permit personal to the applicant, and not transferable unless a modified Special Permit were granted.

c. Requiring a periodic status report from the grantee of the Special Permit or his agent, or requiring periodic inspections by the Code 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, and other regulations.

d. Requiring the filing of the Special Permit, by the grantee, in the office of the Tompkins County Clerk.

6. EXISTING VIOLATIONS. No Special Permit will be granted for a lot where there exists a violation of this Ordinance 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 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 drainage ways 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 drainage ways 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

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.
  - 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 SPECIAL PERMIT CONSIDERATIONS FOR COTTAGE INDUSTRY

No Special Permit 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 in Commercial Zones 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 - PROCEDURE FOR SPECIAL PERMITS

1. Special Permit applications are taken by the Code Enforcement Officer. When the Code 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 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) 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.

3. In making its decision the Planning Board shall determine whether the proposed development satisfies the conditions and requirements set forth in this Ordinance and its decision shall be in accordance with the requirements of this Ordinance.

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.

5. Upon approval of any Special Permit application, the Code Enforcement Officer shall issue the Special Permit.

Section 905 - 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 906 - 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.

#### Section 907 - APPEAL OF PLANNING BOARD DECISION

1. A decision of the Planning Board granting or denying a Special Permit may be appealed to the Town Board by

a. The applicant, if the Special Permit is denied or granted with conditions unacceptable to the applicant; or

b. The owner or 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, if the Special Permit is granted.

2. An appeal shall be filed with the Town Clerk in writing within fifteen days of the filing of the decision of the Planning Board with the Town Clerk, or within thirty days of the meeting at which the Planning Board made its decision, whichever is earlier. The appeal shall state the reasons for the appeal and, in the case of an appeal from the granting of the permit referred to in subparagraph 1 (b) above, shall be signed by the owners of the requisite amount of land area. If the appeal is by the applicant, the appeal shall be signed by the applicant.

3. The written appeal shall be accompanied by the fee established by the Town Board for hearing such appeals.

4. The Town Board shall set a public hearing to hear the appeal, which public hearing shall be held within 60 days of receipt of the appeal with all applicable fees, unless the time is extended with the consent of the applicant. Notice of such hearing shall be given by publication in the official Town Newspaper at least five days prior to such hearing and shall also be mailed by the appellant(s)

to all owners of property contiguous to the boundaries of the property under consideration in the same manner as notice of the public hearing before the Planning Board set forth above. The Town Board may direct the appellant(s) to provide notice of the hearing to any person owning land within 500 feet (or such lesser distance as the Town Board may determine) of the perimeter of the boundary of the property under consideration. The Town Board at its discretion may direct Town staff, instead of the appellant(s) to conduct the above described mailings.

5. The Town Board shall affirm the Planning Board's decision if it finds that such decision was in compliance with the requirements of this Ordinance.

6. If the Town Board is unable to make the foregoing findings, the Planning Board's decision shall be reversed, unless the Town Board finds that with modifications or new or additional conditions, the Planning Board's decision as modified will be in compliance with the requirements of this Ordinance. In that event, the Town Board shall affirm the Planning Board's decision with such modifications and/or new or additional conditions as the Town Board reasonably deems necessary in order to so affirm. In making its decision, the modifications and/or conditions may include approving, disapproving, or approving with modifications any related site plan.

7. The Town Board shall render its decision within 62 days of holding the public hearing unless the time is extended with the consent of the applicant. Failure to act within any time limits set forth herein shall not be deemed an affirmance or reversal of the Planning Board's decision.

8. If the decision approves the issuance of the permit, the Code Enforcement Officer shall issue the Special Permit, as affirmed by the Town Board, with such conditions, if any, as were finally approved by the Town Board. If the decision disapproves the issuance of the Special Permit, the Town Board shall direct the Code Enforcement Officer to revoke the Special Permit. Any construction, development, or other expenses incurred by an applicant who was granted a Special Permit by the Planning Board, which grant is subject to appeal, shall be at the peril of the applicant or the owner of the subject property, and shall not give rise to any claim for damages by that applicant or owner.

#### **ARTICLE X: NON-CONFORMING USES.**

**Section 1000 - NONCONFORMING LOTS OF RECORD** In any Zone in which one single- or two-family dwelling is permitted, a one family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption of this Ordinance (or adoption of an amendment to this Ordinance changing the lot to a non-conforming lot), provided such lot was a valid, lawfully existing lot at the time the Ordinance 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 Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance 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 Ordinance;
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 Ordinance; 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 Ordinance 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 Ordinance that could not be built under the terms of this Ordinance 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 Ordinance; 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 Ordinance, that would not be allowed in the Zone under the terms of this Ordinance, 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 Ordinance 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 Ordinance, 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 Ordinance.

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 Ordinance, may be returned to a farm use at any time.

Section 1005 - CONTINUATION OF CONSTRUCTION Nothing in this Ordinance 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 Ordinance 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:

Low Density Residential Zone

Medium Density Residential Zone

High Density Residential Zone

Mobile Home Park Zone

Planned Development Zone

Commercial Zone "A"

Commercial Zone "B"

Commercial Zone "C"

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 Code 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 Code Enforcement Officer as hereinafter provided, or by direct application to the Board in those instances where there is no application for a permit or certificate before the Code Enforcement Officer. Any such direct application to the Board of Appeals shall be made on such forms and contain such information as the Board and/or the Code Enforcement Officer may determine and shall be delivered to the Code 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 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. [2-11]

Section 1101 - BUILDING PERMIT, CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE, CERTIFICATE OF COMPLIANCE, OPERATING PERMIT [2-11]

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 “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, 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:

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 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 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 may take an appeal to the Board of Appeals. The Board of Appeals shall, in accordance with the provisions contained in this Ordinance, 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), 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. Such Board shall also hear and determine any other matter referred to it by the provisions of this Ordinance 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 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 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 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 [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 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 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 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 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 ORDINANCE In their interpretation and application the provisions of this ordinance shall be held to be minimum requirements necessary to accomplish the purpose of the ordinance. When requirements of this ordinance conflict with the requirements of other lawfully developed 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 ordinance 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. 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 Ordinance, as re-adopted, re-enacted and amended.

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

## **APPENDIX I - DEFINITIONS**

The following definitions shall be adopted as a part of the Danby Zoning Ordinance.

**ADULT ENTERTAINMENT BUSINESS** - A business involving one or more of the following:

1. Adult arcades where, for any form of consideration, one or more motion picture projectors, slide projectors, video cassette players, computers, or similar machines, for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, computer generated images, or other photographic reproductions, which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
2. Adult bookstores which have as a substantial (50% or more) portion of its stock in trade and offers for sale, for any consideration, any one or more of the following:
  - a. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representations, which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, or
  - b. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
3. Adult cabarets meaning any nightclub, bar (including establishments which do not serve alcoholic beverages), restaurant, or similar establishment, which regularly features live performances characterized by exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides or other photographic reproductions characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
4. Adult motion picture theater where, for any form of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are regularly shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
5. Adult theater meaning a theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances in which a substantial portion of the total presentation time is devoted to the exposure of specified sexual activities or specified anatomical areas.
6. Massage parlor where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment or manipulation of the human body is administered, unless by a medical practitioner, chiropractor, acupuncturist, physical therapist, licensed massage therapist, or similar professional person licensed by the state. This definition shall not be deemed to include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where

massage or similar manipulation of the human body is offered as an incidental accessory service.

7. Peep show where, for any form of consideration, persons may observe from individual enclosures shows which regularly feature live performances characterized by exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides, computer generated images, or other photographic reproductions characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

**ALTERATIONS** - As applied to a building or structure,

1. enlargement by increasing in height or by extending on a side, front, or back;
2. moving from one location or position to another;
3. any change, addition, or removal of the structural parts; or
4. any change, addition, or removal of partitions, or any change in walls, ceiling, windows, or doors.

**BASEMENT** - That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average finished grade of the ground adjoining the building.

**BUILDING** - A structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals, or property. (See also "Structure").

**BUILDING, ACCESSORY** - Any building subordinate and clearly incidental to the principal building on the same lot and used for purposes customarily incidental to those of the principal building.

**BUILDING AREA** - The total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

**BUILDING CODE** - The New York State Uniform Fire Prevention and Building Code (9 NYCRR Part 600 et. seq.) as the same may be amended from time to time, and any successor regulations, laws or codes.

**BUILDING LINE** - A line formed by the intersection of a horizontal plane at finished grade level and a vertical plane that coincides with the exterior surface of the building on any side.

**BUILDING, PRINCIPAL** - A building within which is conducted the primary use of the lot on which the building is located.

**CELLAR** - A story partly or entirely below grade level and having more than one-half of its height, measured from floor to ceiling, below the average finished grade of the ground adjoining the

building. A cellar shall not be considered in determining the permissible number of stories.

**CLINIC** - A building or any part of a building which is used for the group practice of medicine by several physicians in which certain facilities other than reception are shared by the occupants and in which patients are diagnosed or treated by physicians specializing in various ailments and practicing as a group. A clinic does not include a building for which overnight accommodations are provided on a regular basis for patients.

**CONSERVATION** - Any use that will maintain the land in essentially its natural state.

**COTTAGE INDUSTRY** - A property or buildings where the primary use is art-or craft-oriented design, production or assembly, such as leather working wood working, metal working, ceramics production, tailoring, and similar activities, employing not more than 5 persons, and where the total building floor area of all buildings dedicated to the cottage industry is not larger than 3,000 square feet. Specifically excluded from the definition of Cottage Industry is the repair or assembly of vehicles or equipment with internal combustion engines, such as automobiles, motorcycles, snowmobiles, marine engines, lawn mowers, chain saws, and other small engines.

**DAY CARE HOME** - A facility, home or other establishment, other than a school, at which day care is provided for hire for up to three children under the age of sixteen years.

**DAY CARE FACILITY, GROUP** - A facility, home or other establishment licensed by the New York State Department of Social Services or certified by the Tompkins County Department of Social Services, other than a school, at which day care is provided for hire for more than three, but no more than eight, children under the age of sixteen years.

**DAY CARE HOME, GROUP FAMILY** - A group family day care home shall be as defined in Section 390 of the Social Services Law of the State of New York, Subdivision 13(a) and shall be licensed by the New York State Department of Social Services, or certified by the Tompkins County Department of Social Services.

**DAY CARE CENTER** - A facility, home or other establishment licensed by the New York State Department of Social Services or certified by the Tompkins County Department of Social Services, at which day care is provided for hire, and which is not a school, day care home, group day care facility, or group family day care home.

**DISTRICT**- A physical area of land with boundaries established for zoning purposes, also referred to as a "ZONE".

**DWELLING** - A building used or occupied as living quarters for one or more families.

**DWELLING UNIT** - A dwelling, or portion of a dwelling, providing complete living facilities for one family.

**DWELLING, ONE FAMILY** - A detached building containing a single dwelling unit.

DWELLING, TWO-FAMILY - A detached building containing two dwelling units.

DWELLING, MULTIPLE-FAMILY - A detached building containing three or more dwelling units.

EASEMENT - A grant by the property owner to the public, a corporation, or a certain person or persons of the use of a designated part or attribute of his property for a specific purpose.

EXCAVATION - An excavation is a hollow or cavity formed by removing 20 cubic yards or more of soil or fill which has a slope grade greater than 1 foot over 3 as that term is commonly understood in the field of engineering.

FAMILY –

1. A housekeeping unit consisting of
  - a. An individual, or
  - b. Two or more persons occupying a single dwelling unit, related by blood, marriage, or legal adoption, living and cooking together as a single housekeeping unit, or
  - c. Not more than three unrelated persons, occupying a single dwelling unit, living and cooking together as a single housekeeping unit.
2. Notwithstanding the provisions of paragraph (1)(c) of this definition, a group of unrelated persons numbering more than three (3) shall be considered a family upon a determination by the Board of Appeals that the group is a functional equivalent of a family pursuant to the standards enumerated in paragraph (4) herein.
3. Before making a determination whether a group of more than three unrelated persons constitutes a family for the purpose of occupying a dwelling unit, as provided for in paragraph (2) of this definition, the Board of Appeals shall hold a public hearing, after public notice, as is normally required for the obtaining of a variance. The fee for such an application shall be the same as is required for an application for a variance. Said application shall be on a form provided by the Board of Appeals or Code Enforcement Officer.
4. In making a determination under paragraph (2) the Board of Appeals shall find all of the following:
  - a. The group is one which in theory, size, appearance and structure resembles a traditional family unit;
  - b. The group is one which will live and cook together as a single housekeeping unit; and
  - c. The group is of a permanent nature and is neither merely a framework for transient or seasonal (including as "seasonal" a period of an academic year or less) living, nor merely an

association or relationship which is transient or seasonal in nature. In making this finding, the Board of Appeals may consider, among other factors, the following:

- i) Whether expenses for preparing of food, rent or ownership costs, utilities, and other household expenses are shared and whether the preparation, storage and consumption of food is shared.
  - ii) Whether or not different members of the household have the same address for the purposes of
    - (a) Voter registration.
    - (b) Drivers license.
    - (c) Motor vehicle registration.
    - (d) Summer or other residences.
    - (e) Filing of taxes.
  - iii) Whether or not furniture and appliance are commonly owned by all members of the household.
  - iv) Whether or not any children are enrolled in local schools.
  - v) Whether or not householders are employed in the local area.
  - vi) Whether or not the group has been living together as a unit for an extended period of time, whether in the current dwelling unit or other dwelling units.
  - vii) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a traditional family.
  - viii) In making determinations under this section, the Board of Appeals shall not be required to consider the matters otherwise normally required in making determinations (e.g., practical difficulties or unnecessary hardship).
5. Notwithstanding the provisions elsewhere provided herein, if the following limitations result in a lesser permitted number of occupants than would be permitted under the definition of family set forth above and the regulations of each zone set forth later in this Ordinance, the number of occupants, related or otherwise, shall not exceed the maximum numbers determined on the basis of habitable space of each dwelling unit as follows:

- a. A minimum of 150 square feet of habitable space for the first occupant; and
- b. 80 square feet of habitable space for each additional person in each dwelling unit.

In no case shall the enclosed floor area be less than required by other provisions of this Ordinance or by the New York State Fire Prevention and Building Code.

**FRONTAGE** - The greater of:

1. The distance between side lot lines measured along a public street right of way lines; or
2. A line parallel to a public street right of way line at the maximum distance specified for front yard depth.

**GARAGE** - An enclosed space for the storage of one or more motor vehicles whose use is accessory to other permitted uses of principal buildings, and not used for business, occupation or services conducted for profit.

**GARAGE, SERVICE AND REPAIR** - Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

**GASOLINE SERVICE STATION** - Any establishment whose principal use is the servicing of motor vehicles with fuel, supplies and accessories. It may also include the operation of a service and repair garage.

**GRADE, AVERAGE FINISHED** - The average level of the natural surface of the ground or surface of the ground after completion of any change in contour abutting any building or structure on a lot. To the extent the grade slopes down to or away from the building or structure on the premises, average finished grade shall be measured at a point three feet from the building line.

**HEIGHT FROM LOWEST INTERIOR GRADE** - As it relates to a building is the vertical distance measured from the lowest level (floor of a crawl space, basement floor, slab, or other floor, even if below exterior grade level) in contact with the ground surface to the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. When the measurement of height from the lowest interior grade is made from the floor of a cellar the maximum permissible height from lowest interior grade shall be increased by four feet. This permitted increase shall not apply when the measurement is from any other floor, including a basement floor or slab.

**HEIGHT FROM LOWEST EXTERIOR GRADE** - As it relates to a building is the vertical distance from the lowest point of the exterior finished grade adjacent to the wall of the building to the highest point of the roof, excluding chimneys, antennae and other similar protuberances.

**HEIGHT** - As it relates to a structure other than a building means the distance measured from the lowest level or portion of the structure (slab or base) in contact with the ground surface at the average finished grade to the highest point at the top of the structure.

**HOME OCCUPATION** - An accessory use which is located on a lot whose primary use is

residential. In particular, a home occupation shall be limited to dressmaking, hairdressing, teaching, laundering, carpentry, electrical and plumbing work, and similar types of activity, and professional offices, such as architects, lawyers, realtors, doctors, dentists, engineers and insurance brokers, operated by the person living on the property and employing not more than two additional people who are non-residents. A home occupation shall produce no offensive noise, vibration, smoke, dust, odor, heat, glare or electronic disturbance beyond the property it occupies. The home occupation may not entail the outdoor storage of materials, equipment, or other items of commerce; nor the uncovered parking of more than one commercial vehicle. The home occupation shall not generate traffic in any greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the occupation shall be met off the street and in accordance with any other regulation of this ordinance.

**HOSPITAL** - An establishment for occupation by the sick or injured for the purposes of medical treatment. The term "hospital" shall include a sanitarium, clinic, rest home, convalescent home, nursing home, and any other place for the diagnosis, treatment or other care of human ailments providing beds for overnight occupation for hire. Hospitals do not, however, include group homes, or other similar establishments where the principal purpose is overnight accommodations in a home for persons working generally elsewhere and not in need of daily medical and/or nursing care.

**HOTEL, MOTEL, BOARDING HOME** - A building or buildings in which overnight accommodations are provided for transient guests for compensation including bed and breakfasts where the bed and breakfast is the principal use of the premises.

**INDUSTRIAL ESTABLISHMENT**—[3-11] shall mean any property or buildings used for Light Industrial uses or operations, and shall be interpreted and construed to exclude any “heavy industry” or high impact industrial uses or operations, including, but not limited to, and for the purpose of providing examples only, smelting and ore refining processes, Natural Gas and/or Petroleum Extraction, Natural Gas and/or Petroleum Exploration, large-scale meat or poultry processing plants, coal or mineral processing or gasification operations, large-scale chemical and pharmaceutical processing plants, large-scale plastics or rubber manufacturing or extrusion processes, and similar operations and businesses [3-11]

**IMPROVEMENTS** - Man-made alterations which cause a physical change to be made to real property. Such improvements may include, but are not limited to, buildings, structures, public utilities, roads, sidewalks,, landscaping and buffering, lighting, parkland and recreation equipment, and monuments.

**JUNK YARD** - A "junk yard" is

1. Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale or used parts therefrom, for the purpose of reclaiming for use some or all of the material therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of the same or for any other purpose; such terms shall include any place or storage or deposit for any such purposes of used parts of waste materials from

motor vehicles which, taken together, equal in bulk two or more such vehicles, provided, however, the term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel, or non-ferrous scrap and whose principal produce is scrap iron, steel or non-ferrous scrap for sale for remelting purposes only.

2. Any lot, land or structure or part thereof, used primarily for the collecting, storage, or sale of waste paper, rags, scrap metal (other than excluded above) or other scrap or discarded material or for the collection, dismantling, or storage of machinery for the resale of same or the sale of parts thereof.

LIGHT INDUSTRIAL and LIGHT INDUSTRY [3-11] (and phrases that use such terms, including, but not limited to, references to light industrial uses or impacts)—Allowed low-impact industrial uses, which may include, subject to the requirements set forth below, light assembly and fabrication businesses, warehousing and wholesale businesses, light manufacturing or finishing businesses, research and testing facilities and operations, and similar uses, each and all of which shall only be deemed and classified as “low impact” or “Light Industrial” only when: (i) the cumulative environmental and social impacts from such uses or impacts shall not significantly and adversely affect the environment, including, but not limited to, air quality, floodplains, steep slopes, riparian and littoral areas and corridors, wetlands, aquifers and aquifer recharge areas and other fresh water sources; and (ii) such uses or operations shall not materially and adversely affect neighboring land uses or any residential areas of the Town; (iii) the effects or impacts attendant to such uses or operations relating to parking, driveways, roads, traffic, landscaping and screening, noise and vibration emissions, lighting and light emissions, odors and smells, and waste disposal or emissions, are not individually or in the aggregate deemed significantly adverse; and (iv) the overall size of any structures or improvements, in terms of size, height, or the percentage of land coverage of all improvements and parking and road areas, do not, in any such dimension or percentage, exceed the lesser of 2 acres or 50% of the overall lot area; and (v) where required, all variances, site plan approvals (with or without conditions), and special permit approvals (with or without conditions) have been duly applied for, granted, and timely utilized pursuant to the terms and requirements of the Town of Danby Zoning Ordinance (and any other applicable law, ordinance, rule, or requirement of the Town of Danby).[3-11]

LOT - An area of land in single ownership of record. The term "lot" is synonymous with the term "parcel".

LOT AREA - An area of land the size of which is determined by the limits of the lot lines bounding said area and as usually expressed in terms of square feet or acres. For all calculation purposes of lot area acreage within a highway right of way for streets or roads is excluded.

LOT, CORNER - A parcel of land at the junction of, and fronting on, two or more intersecting streets or highways.

LOT COVERAGE - That percentage of lot area covered by a structure or structures.

LOT, INTERIOR - Any lot in any zone having access to a public highway by a driveway or lane only and having no additional frontage on said highway or other public highways.

**LOT LINES** - The property boundary of a lot.

**LOT DEPTH** - The distance between a point on the street line and the rear of the lot measured perpendicularly from the street line. A lot need meet the minimum depth requirements set forth in this ordinance at only one point and not uniformly throughout the lot's entire width.

**LOT WIDTH** - (See frontage)

**MANUFACTURED HOME** - A dwelling which incorporates structures or components which are wholly or in substantial part manufactured in a manufacturing facility, for installation on a building site. "Manufactured Home" includes "Mobile Home" and "Modular House".

**MEMBERSHIP CLUB OR LODGE** - A structure or premises used exclusively by members of an organization and their guests which premises or structures are devoted to recreational or athletic purposes, not primarily conducted for gain. Such term excludes commercial and merchandising activities for other than its own membership except for an occasional, intermittent fund raising event such as a chicken barbecue or the like.

**MOBILE HOME** - A transportable dwelling unit suitable for year-round occupancy which is designed and built to be towed on its own chassis, comprised of frame and wheels, and which is designed to be used as a dwelling unit with or without a permanent foundation when connected to required utilities. The unit may contain parts which may be folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity. A mobile home may also be designed as two or more separately towable components designed to be joined into one integral unit capable of again being separated into the components for repeated towing. This definition excludes travel or camping trailers towed by an automobile and neither wider than 8 feet nor longer than 32 feet. Self-propelled motor homes and Modular Houses are also excluded from this definition. A mobile home shall be considered a one-family dwelling for purposes of determining permitted occupancy. A mobile home shall be constructed in accordance with all applicable federal and state codes and requirements, including the requirements of the Federal Manufactured Housing Construction and Safety Standards Act of 1974 as amended, any similar successor statute, and all regulations issued under any of such laws.

**MOBILE HOME LOT** - A parcel of land used for the placement of a single mobile home and the exclusive use of its occupants. Except where double-wide mobile homes may be permitted by Special Permit, a mobile home lot may be located only in a mobile home park as defined by this ordinance.

**MOBILE HOME PARK** - A parcel of land owned by an individual, partnership, or corporation which has been planned and improved for the placement of mobile homes.

**MODULAR HOUSE** - A dwelling unit or units constructed off-site consisting of more than one segment and designed to be permanently installed on, and anchored to, a foundation to become a fixed part of the real estate. A modular house is manufactured and certified according to the building

code.

**MOBILE HOME STAND** - That part of an individual mobile home lot which has been reserved and improved for the placement of the mobile home, appurtenant structures and additions.

**NATURAL GAS**—[3-11] methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION**—Geologic or geophysical activities related to the search for Natural Gas, petroleum, or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search for and evaluation of Natural Gas, petroleum, or other subsurface hydrocarbon deposits.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION AND PRODUCTION MATERIALS**—Any solid, semi-solid, liquid, semi-liquid or gaseous material used in the exploration or extraction of Natural Gas.

**NATURAL GAS AND/OR PETROLEUM EXTRACTION**—The digging or drilling of a well for the purposes of exploring for, developing, or producing Natural Gas, petroleum or other subsurface hydrocarbons, including without limitation, any and all forms of shale fracturing.

**NATURAL GAS EXPLORATION AND/OR PETROLEUM PRODUCTION WASTES**—Any garbage, refuse, cuttings, sludge, flow-back fluids, brine, produced waters, or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling, or extraction of Natural Gas and/or petroleum and any related hydrocarbons, and any natural or non-natural radioactive, carcinogenic, or toxic chemicals or compounds (herein, “Deleterious Substances”) used in or for, occurring or arising from, relating to, or produced by any process or operation relating to the exploration for or the extraction or production of, or the processing, treatment, or transportation of, Natural Gas, petroleum, or any related hydrocarbons, regardless of whether such Deleterious Substances have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of “industrial waste,” “hazardous,” or “toxic,” and regardless of whether considered or classified as “waste” or of a below-regulatory concern level. This definition specifically intends to include some wastes that may otherwise be classified as “solid wastes which are not hazardous wastes” under 40 C.F.R. § 261.4(b). “Deleterious Substances” shall also include, but not be limited to, crude oil and Natural Gas drilling fluids and their exploration, drilling, production, and processing wastes, such as, but not limited to, fracturing fluids, brine, produced water, flowback water, waste oils, waste emulsified oils, mud and drilling or lubricating mud, contaminated soils, drill cuttings, fracture fluid holding pit or tank contents, sediments or residues, or any of the foregoing whenever transformed into any other liquid, solid or gaseous state by any process.

**NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES**—The construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a Natural Gas or petroleum storage facility, a brine or fracturing/flowback water pit or other enclosed or semi-enclosed container or construct, or a Natural Gas or petroleum gathering line, venting station, compressor, dehydrator, or other appurtenance associated with the exploration or extraction of Natural Gas, petroleum, or any related hydrocarbons.[3-11]

**NURSERY, HORTICULTURAL** - A place where trees or other plants are raised for transplanting or sale.

**PARKING SPACE** - The area required for parking one automobile, which in this ordinance is held to be an area of nine feet wide and twenty feet long, not including passageways, maneuvering area and access drives.

**PERSONAL SERVICE SHOP** - A shop catering to personal needs such as barber shop, beauty parlor, or hairdresser.

**PLOT PLAN** - A plan of an area of ground and improvements proposed thereon delineated in the form of a diagram, or map.

**ROADSIDE STAND** - A small structure, booth, or stall adjacent to a highway principally for the retail sale of vegetables, fruit, or dairy products to passersby.

**SEQR** - New York state legislation known generally as the New York State Environmental Quality Review Act, any successor legislation, and any regulations promulgated thereunder.

**SIGN** - Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency.

**SIGN, OFF-PREMISES** - Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such is located.

**SIGN, ON-PREMISES** - Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where said sign is located.

**SPECIAL USE PERMIT or SPECIAL PERMIT** - A permit that allows those uses of land or buildings specifically listed in this Ordinance as being permitted only by special permit, and with the conditions set out in the granting of such permit.

**SPECIFIED ANATOMICAL AREAS** -

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

2. Human male genitals in a discernible turgid state even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES -**

1. Human genitals in a state of sexual stimulation or arousal; or
2. Acts of human masturbation, sexual intercourse or sodomy; or
- 3.) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

**STORMWATER LOCAL LAW** – means the Town of Danby Local Law Number 1 of 2010, entitled “Town of Danby Stormwater Management, Erosion and Sediment Control Law.” All capitalized terms used in relation to the term “Stormwater Local Law”, such as, but not limited to, SWPPP, SWPPPS, Stormwater Permits, Stormwater Management Practices, Maintenance Agreement(s), Dedication(s), SPDES Permit(s), Stabilization, Stormwater Runoff, Sediment(s), Sedimentation, Erosion, Point Source Pollution, Nonpoint Source Pollution, Pollutants of Concern, and Stormwater Hotspots, shall have the meaning and definitions applied as set forth in and by the said Stormwater Local Law, each and all of which definitions are expressly incorporated into this Zoning Ordinance.

[2-10] **STORMWATER MANAGEMENT PRACTICES** - any Erosion Control Facility, Stormwater Control Facility, Stormwater Control, Sedimentation Containment Facility, Watercourses, Waterways, Surface Waters, Channels, ditches, drains, culverts, ponds, retaining facilities, plantings, berms, swales, pipes, and other structures and appurtenances built, used, or intended to be utilized to protect and/or control Stormwater, Stormwater Hotspots, Sediments, Sedimentation, Erosion, Stormwater Runoff, Infiltration, Recharges, Sensitive Areas, Point Source Pollution, Nonpoint Source Pollution, Pollutants of Concern, Impaired Waters, Stabilization, Surface Waters, Channels, Waterways, and Watercourses, including, but not limited to, buildings, facilities, plantings, controls, protocols, designs, practices, methodologies, measures, acts, and devices, whether structural or nonstructural, or any combination thereof. The definitions of each capitalized term as used in this definition is as set forth in Town of Danby Local Law Number 1 of 2010, entitled “Town of Danby Stormwater Management, Erosion and Sediment Control Law,” and each such definition is expressly incorporated into this definition and this Zoning Ordinance.[2-10]

**STREET** - A right-of-way or strip of land at least 49 feet wide, dedicated to public use and owned by a public entity for a primary access to adjacent lands, and whether designated as a highway, thruway, road, avenue, boulevard, lane, drive, place, circle or otherwise. Where the word "street" appears, it also means highway or road.

**STREET LINE** - That line that determines the limit of the right of way of a street, road, or highway.

**STRUCTURE** - Anything that is constructed or erected on the ground or upon another structure or building. "Structure" also includes anything that is constructed or erected underground and projects up to the ground surface or above, or anything that is constructed or erected wholly underground other than utility lines, septic and water systems, or other similar types of underground construction wholly ancillary to a principal building or structure on the premises. "Structure" also includes

constructed parking spaces. The term "structure" includes a building.

**TAVERN** - An establishment devoted to the primary use of selling alcoholic beverages for consumption on the premises. Food may be served as an incidental use. A bar, grill, saloon, pub, dance hall or similar establishment shall be considered a tavern.

**TOURIST HOME** - A dwelling in which overnight accommodations are provided or offered for transient guests for compensation provided that such use is secondary to the occupancy of the dwelling by a family. Tourist homes include bed and breakfasts providing that the use is secondary to the occupancy of the dwelling by a family.

**TOWN** - The Town of Danby.

**USE, ACCESSORY** - A use customarily incidental and subordinate to the principal use of a structure or lot and located on the same lot with such principal use of a structure or lot.

**USE, AGRICULTURAL** - Management of land for agriculture, raising of cows, horses, pigs, poultry and other livestock, horticulture, aquaculture, silviculture, or orchards, including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

**USE, NON-CONFORMING** - A building, structure, lot, or use of land legally existing at the time of enactment of this ordinance, and which does not conform to the regulations of the zone or zone in which it is situated.

**USE, PRINCIPAL** - The specific purpose for which a lot or a structure is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

**YARD** - An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise permitted in this Ordinance.

**YARD, FRONT** - An open unoccupied space between the front building line and the right-of-way line of the street and extending the full width of the lot.

**YARD, REAR** - An open unoccupied space between the rear building line and the rear line of the lot extending the full width of the lot.

**YARD, SIDE** - An open unoccupied space between each side building line and the side line of the lot and extending from the front yard to the rear yard.