

COPY

RESOLUTION #18 of 2009
ESTABLISHING FEES FOR BUILDING CODE, ZONING ORDINANCE,
SUBDIVISION & LAND DIVISION REGULATION, AND OTHER
ENFORCEMENT ACTIVITIES

By Councilperson Klein: Seconded by Councilperson Beavers
WHEREAS, the Town Board of the Town of Danby by Resolution No. 72 of 1991 established fees for permits, review, and other matters related to administration and enforcement of the New York State Uniform Fire Prevention and Building Code, the Zoning Ordinance of the Town of Danby, and the Subdivision Regulations of the Town of Danby; presently entitled the Subdivision and Land Division Regulations of the Town of Danby; and

WHEREAS, the Town wishes to update such fees in conjunction with said legislation as it may be amended from time to time;

NOW, THEREFORE, it is

RESOLVED, that the fees set forth below shall supersede any other fees established by any prior resolutions of this Board for the activities described herein; and it is further

RESOLVED, that the fees set forth below shall take effect May 5, 2009; and it is further

RESOLVED, that fees for the items set forth below be calculated as follows:

1. Miscellaneous provisions.

(a) The Town Board, Planning Board, or Board of Appeals, as applicable, shall hold no public hearing nor take any action to endorse or approve any application until all applicable fees and reimbursable costs have been paid to the Town with receipt therefore provided to the respective Board except if costs are deposited in escrow as herein after set forth, action may commence unless the amount in escrow is found to be inadequate and the applicant has not replenished the escrow account. In that event further action by any board shall be suspended until the applicant has deposited the appropriate amount back in the escrow account.

(b) Fees shall be calculated by the Code Enforcement Officer. When an escrow deposit is required, if there exists any question as to the required amount of escrow, the officer collecting the fees may consult with an Engineer retained by the Town, whose calculation of same shall be final. Such fees shall be collected by the Town Clerk or the Town Clerk's designee who shall issue a receipt stating the purpose of the payment. This receipt must be filed with the application as evidence of payment.

(c) All Application Fees paid to the Town in accordance with the fee schedule shall be non-refundable unless miscalculated or unless refundable under the terms of this resolution. Except for unexpended escrow amounts or miscalculated fees, or building permit fees as set forth below, no funds paid to or deposited with the Town for review or inspections shall be returned to the applicant should an application be disapproved by the Town, reduced in scale by the applicant, or otherwise partially or wholly abandoned.

(d) For purposes of calculating fees, if the proposed structure involves a dormitory, two bedroom shall constitute one dwelling unit.

(e) Any inspections relating to building permits requested outside of normal business hours will be billed at the rate of \$25.00 per hour (minimum charge of 2 hours) in addition to the permit fee.

2. Building Permit fees.

(a) Building permit fees for new construction shall be calculated based upon square footage of the structure. Basement areas are excluded from the square footage if the basement is unfinished and not used as living quarters. When the square footage calculation cannot be readily applied, the fee will be based upon the estimated cost of the improvement as determined by the Code Enforcement Officer. Unless otherwise determined by the Code Enforcement Officer, the fees shall be calculated as follows:

Residential New Construction:

All One and Two Family Residences, and Additions..... 25 cents/square foot*
(exclude basements from square foot total if unfinished)

Mobile Homes on private lots, (double wide and temporary single wide) \$200.00

Mobile Homes on rental lots, (double wide and single wide) \$75.00

Garages, Pole Barns, Storage Buildings, Decks & Porches..... 10 cents/square foot*
(note that a new residence with a garage will pay \$.25 + \$.10 per sq ft.)

Swimming Pools, (above ground and in-ground) \$45.00

All Solid Fuel Stoves or Burning Appliances, (wood, coal, pellet, etc)..... \$25.00
(Appliance and Chimney must be inspected by Code Enforcement Officer)

Renovations and Alterations:

All Renovations and Alterations 25 cents/square foot*
When the per sq. foot isn't feasible for calculation, fee will be based upon..... \$4.00 per thousand**

Commercial Construction:

Based on Estimated Cost of Construction..... \$5.00 per thousand**

* Square Footage is Based Upon Exterior Measurements in All Cases

** The "per thousand dollars" estimated cost of construction is determined by the Code Enforcement Officer and will include a estimated cost for labor along with materials.

There Will Be A Minimum Fee Of \$35.00 For All Permits Unless Otherwise Noted

- (b) In the event that a building permit must be renewed a fee equal to 50% of the original building permit fee will be charged prior to re-issuance of the permit.
- (c) In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 75% of the fee paid.

3: Other Code Enforcement Officer Inspection Fees Related to Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code.

- (a) When a Certificate of Occupancy is issued in conjunction with completion of new construction for which a building permit fee has been paid, there shall be no charge for the Certificate of Occupancy. If a Certificate of Compliance is requested independent of construction for which a building permit has been issued (e.g., an application for a certificate evidencing compliance with all applicable rules and regulations when the property changes hands) there shall be a fee of \$100.00 for the issuance of the certificate.
- (b) Whenever an inspection is required related to inspection of areas of public assembly, periodic inspection of other occupancies, or an operating permit, as provided in the Town's Local Law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code, the fee shall be \$50.00.

4. Application Fees and Public Hearing Fees.

- (a) A non-refundable fee shall be paid along with each application as set forth in the Schedule of Application and Review Fees annexed (the "Fee Schedule") to cover expenses related to the administration and processing of applications, including agenda or public hearing notice, clerical processing, and preliminary processing of the application by planning and/or engineering personnel.
- (b) Whenever an application or appeal is filed with the Town for which a public hearing is required, there shall be paid simultaneously a fee of \$75.00 to defer the costs of publishing and mailing the notice and application to appropriate parties, and the cost of transcribing the proceedings relating to the application or appeal. Such \$75.00 fee is included in the Fee Schedule set forth below as part of the initial application fee.
- (c) If the hearing continues for more than one meeting in necessitating re-publication and/or re-noticing, an additional Public Hearing Fee shall be paid prior to each continued hearing. If the matter continues for more than one meeting but the subsequent meetings do not require a public hearing, an Agenda Processing Fee shall be paid prior to each additional meeting at which the matter is continued without a public hearing. In the discretion of the Town Board, Planning Board, or Board of Appeals, as the case may be, or the person designated to collect application fees, additional Public Hearing Fees or additional Agenda Processing Fees may be waived with respect to any subsequent meetings, particularly if the continuation was necessitated by actions of the Town officials and not by the applicant.

(d) The above fees may be waived in whole or in part, or may be modified by the Town Supervisor, or the Code Enforcement Officer, for good causes shown.

(e) In the case of Subdivision or Site Plan applications, the Planning Board, in its discretion, may waive the fee for a final plat or final site plan in those circumstances where Final Plat or Plan Approval is given simultaneously with Preliminary Plat or Plan Approval.

(f) In the case of clustered subdivision applications, the fees set forth for subdivisions shall apply.

(g) In the case of applications for Rezoning, a basic fee as set forth in the Fee Schedule for initial review of the general plan by staff and the Town Board shall be submitted with the initial application. When rezoning is referred to the Planning Board for recommendation, the fee for Site Plan Review - Preliminary Plans shall be paid prior to any further review of the general plan by the Planning Board and prior to any recommendation by the Planning Board to the Town Board. If the Town Board approves an application for rezoning upon recommendation by the Planning Board, and when specific development is proposed, the fee for Site Plan Review - Final Plans shall be paid to cover the costs of further review by staff and the Planning Board. The Planning Board, in its discretion, may waive the fee for Site Plan Review - Final Plan when there are no substantial changes from the general plan as recommended by the Planning Board and as approved by the Town Board.

(h) In the case of applications for a Special Permit, a basic fee as set forth in the Fee Schedule for initial review of the general plan by staff and the Planning Board shall be submitted with the initial application. The fee required for Site Plan Review - Preliminary Plan shall be paid prior to any further review of the application by the Planning Board. If the Planning Board approves an application for a Special Permit conditional upon approval of a final site plan or in any other circumstance where further review by the Planning Board is required after preliminary site plan approval, the fee for Site Plan Review - Final Plan shall be paid to cover the costs of further review by staff and the Planning Board. The Planning Board, in its discretion, may waive the fee for Site Plan Review - Final Plan when there are no substantial changes from the general plan as recommended by the Planning Board and as approved by the Town Board.

5. Review Fees.

(a) A Review fee shall be paid as set forth in the Fee Schedule set forth below. Such Fee is intended to cover part of the cost of professional services, including, but not limited to, engineering, planning, legal, and other expenses incurred by the Town in its review of the submitted application materials for Preliminary and/or Final Subdivision or Site Plan Approval.

(b) When the Review Fee set forth in the Fee Schedule is calculated on a per lot or per unit basis the Review Fee is non-refundable unless denominated as an amount to be placed in escrow.

(c) When the Review Fee is stated in the Fee Schedule to be the Actual Cost of Review, the Review Fee shall be such actual cost of conducting the review as determined and billed by the Town. The

basis for calculating such costs shall be the actual costs to the Town for independent consultant services, legal services, engineering services, planning services and/or any other services or expenses of outside consultants plus an amount intended to reimburse the Town for the time of Town staff (Code Enforcement Officer, Planning, Legal, Highway Superintendent, and others) devoted to reviewing the proposals. The amount charged for Town staff shall be determined by multiplying the number of hours devoted to the proposal time's hourly rates as determined from time to time by the Town Board for various staff positions.

(d) An escrow agreement providing for the deposit of the amounts set forth in the Fee Schedule in the form directed by the Town shall be executed by the applicant and the deposit made in the amount set forth in the Fee Schedule. Summ so deposited and not utilized in the review process shall be returned to the applicant within a reasonable period of time after the adoption of the last resolution finally disposing of the application (whether by granting or denial of the application). At the time of such return (or if no funds are due, within a reasonable period of time after final disposition of the application) the Town will provide an accounting of the expenses charged to the escrow account.

(e) If the review costs are estimated to exceed the amount so deposited and additional fees are deemed necessary, the applicant shall be notified of the required additional amount by the Code Enforcement Officer and shall add such sum to the escrow account.

(f) If, in the judgment of the Code Enforcement Officer, the deposit provided for herein exceeds the anticipated reasonable review costs, the Code Enforcement Officer may adjust the deposit to reflect the anticipated review cost.

(g) Unexpended escrow funds deposited as part of the Review Fee may be credited against deposits due for the Inspection Fee, where such is required, upon the filing of an application for site development or the construction of improvements.

(h) For purposes of determining the amount of escrow the following shall apply:

(i) As part of the application for Preliminary Subdivision Plat or Preliminary Site Plan Approval, a preliminary estimate of the cost of improvements shall be provided by the applicant's Licensed Professional Engineer along with the other items required for a Preliminary Subdivision Plat or Preliminary Site Plan Application as set forth in the Town of Danby Land Division and Subdivision Regulations and the Town of Danby Zoning Ordinance.

(ii) As part of the application for Final Subdivision Plat or Final Site Plan Approval, a revised estimate of the cost of improvements shall be provided by the applicant's Licensed Professional Engineer along with the other items required for final subdivision application as outlined in the Town of Danby Land Division and Subdivision Regulations and the Town of Danby Zoning Ordinance.

(iii) In the case of subdivision applications, the terms "cost of improvements", "improvement cost" or "project cost" shall mean the costs of construction of all general site improvements (whether on or off the specific site involved) to be constructed by applicant.

such as grading, roads, drainage improvements, sewers, water lines, and others similar items but excluding the cost of dwelling units to be constructed on the subdivided lots. In the case of site plan applications such terms shall mean the costs of construction of all site improvements (whether on or off the specific site involved) including grading, roads, drainage improvements, sewers, water lines, buildings and any other improvement of any nature whatsoever to be constructed by applicant. In both cases such terms exclude land acquisition costs, architects fees, engineering fees and others similar non-construction costs.

(iv) The estimates provided with the preliminary or final application shall be considered, along with the other items of application and anticipated review costs, in determining the amount of review fees escrow.

(v) An estimate of the cost of improvements provided by the applicant and not by a Licensed Professional Engineer may be accepted when in the judgment of the Code Enforcement Officer such estimate is reasonably accurate. The Code Enforcement Officer may adjust such estimate and the estimate as so revised by the Code Enforcement Officers shall be the basis of the escrow deposit calculation.

(vi) In no event shall an escrow account be established with less than a \$200 deposit, which amount shall be a minimum regardless of the amounts calculated pursuant to the Fee Schedule.

6. SEQRA - Related Fees.

(a) In addition to the fees required as stated in the Fee Schedule, the fees for review or preparation of an Environmental Impact Statement involving an application for approval or funding of an action requiring preparation or filing of a draft environmental impact statement shall be determined by the lead agency for each such application. The fees shall be based on the actual cost to the Town for reviewing or preparing the draft and final environmental impact statement, including the cost of hiring consultants, the salary time of Town employees and actual disbursements incurred as a result of the review or preparation of such impact statement, but in no event shall the fees be greater than that established in 6 NYCRR 617.17. The Town Supervisor or Code Enforcement Officer, may require, prior to the commencement of the review or preparation of an environmental impact statement, a deposit to be made with the Town in an amount reasonably estimated to cover the fees set forth in this section.

7. Inspection Fees.

(a) In addition to the fees provided for herein, where the inspection of on- or off-site improvements or development is required (and such inspection is not an inspection required by the New York State Uniform Fire Prevention and Building Code, (hereinafter the "Building Code") specifically provided for elsewhere in this resolution) the applicant shall reimburse the Town for the actual cost to the Town of all engineering, planning, highway inspection, legal, consulting, clerical, Code Enforcement Officer inspections and other expenses incurred by the Town during the process of inspection and review of the completion of site improvements and the fulfillment of any requirements of any regulation or resolution pertaining to development projects which have been granted Final Subdivision or Site Plan Approval. The costs so incurred shall be determined by the Town and billed to the applicant. The basis for calculating such costs shall be the same as set forth above with reference to Review Fees.

(b) An escrow agreement providing for the deposit of the amounts set forth in the Fee Schedule in the form directed by the Town shall be executed by the applicant and the deposit made in the amount set forth in the Fee Schedule to cover the cost of inspections and compliance review incurred

(i) after final approval has been given,

(ii) in the course of building permit issuance,

(iii) during the course of construction of any improvements including buildings, roads, and other improvements, and

(iv) during the course of issuing any certificates of compliance or occupancy.

(c) Along with any application for final approval of site improvement and development construction plans where final approval of such plans is required, an estimate of the cost of improvements shall be provided by the applicant's Licensed Professional Engineer in similar manner as the estimate is provided for the escrow for the review fees. This estimate shall be used along with the other items included in the application and in the prior review process in determining the amount of inspection escrow. The developer shall make the required inspection escrow deposit prior to any final approval of said site improvement and development construction plans and prior to the commencement of construction of any of such improvements.

(d) All of the provisions regarding escrow accounts for Review Fees shall be applicable to the escrow accounts for Inspection Fees including authority to the Code Enforcement Officer to waive the requirement that the cost of improvements be prepared by a Licensed Engineer, and to increase or decrease the required escrow amount, the definition of costs of improvements, and the \$200 minimum deposit.

(e) The inspection fees shall in no case be less than \$100.

(f) The inspection fee may be included as a portion of a letter of creditor performance guarantee, where applicable.

(g) Where applicable or where required, no final acceptance of proposed public improvements, and no final approval of site construction or site improvements shall be made and no Certificates or Occupancy shall be issued until all Inspection Fees have been paid or fully escrowed.

(h) The Town shall return any balance of the deposit to the applicant upon final acceptance of proposed public improvements and/or final acceptance of subject site improvements together with an account of all expenses charged to the escrow fund.

**SCHEDULE OF APPLICATION
AND REVIEW FEES**

Adopted by the Town Board of
the Town of Danby on May 4,
2009

ESCROW FOR:

	Application/Review	Review	Inspection
Land Division By Permit	\$60		
SUBDIVISION REVIEW:			
Initial Application Fee:			
1 to 4 New Lots/Units	\$75		
5 to 10 New Lots/Units	\$120		
More than 10 New Lots/Units	\$150 Plus \$2 Per New Lot/Unit		
Preliminary Plat:			
1 to 10 New Lots/units (Without Roads or Public Utilities)	\$75 Plus \$20 Per New Lot/Unit		
All Others	\$150 Plus Actual Cost of Review	0.5% of estimated improvement cost	
Final Plat:			
1 to 10 New Lots/Units (Without Roads or Public Utilities)	\$75 Plus \$20 Per New Lot/Unit		
All Others	\$150 Plus Actual Cost of Review	0.5% of estimated improvement cost	
Inspection:	Actual Cost of Inspection		0.5% of estimated improvement cost
Plats/Replats whose sole purpose is to dedicate land for public use:	No Charge	No Charge	No Charge
Plat Reaffirmations:	\$75 Plus \$5 Per New Lot/Unit		

	Application/Review	ESCROW Review	FOR: Inspection
SPECIAL PERMITS AND SITE PLAN REVIEW:			
Initial Application Fee:	\$75		
Preliminary Plan:			
Non-Residential	\$120 Plus Actual Cost of Review	0.1% of estimated project cost, excl. land	
Residential	\$120 Plus Actual Cost of Review	\$25 Per Dwelling Unit	
Final Plan:			
Non-Residential	\$75 Plus Actual Cost of Review	0.1% of estimated project cost, excl. land	
Residential	\$75 Plus Actual Cost of Review	\$30 Per Dwelling Unit	
Inspection:			
Non-Residential	Actual Cost of Inspection		0.05% of estimated project cost, excl. land \$25 Per Dwelling Unit
Residential	Actual Cost of Inspection		Unit
ZONING AMENDMENT / REZONING:	\$170 Plus Pertinent Site	Plan Review Fees	
APPEALS OF SPECIAL PERMITS TO TOWN BOARD:	\$125		
ZONING APPEALS: Area & Use Variances:	\$125		

ADDITIONAL MEETING

FEE:

(In the event of more than 1 meeting or public hearing per application)

Agenda Processing: \$45

Public Hearing Processing: \$75

A roll call vote on the resolution resulted as follows

Councilperson Salino absent

Beavers Aye

Connors Aye

Klein Aye

Dietrich Aye

Carried

STATE OF NEW YORK)
COUNTY OF TOMPKINS) SS:
TOWN OF DANBY)

Carol W. Szczepanski, Town Clerk in the Town of Danby, a Municipal Corporation of the County of Tompkins, State of New York, hereby certify that the foregoing resolution is a true and exact copy of a resolution duly adopted by the Town Board of said Town of Danby at a regular meeting held on the 4th day of May of 2009.

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of the Town of Danby, this 14th day of May 2009.



Carol W. Szczepanski, Town Clerk