

**TOWN OF DANBY, TOMPKINS COUNTY, NEW YORK
LOCAL LAW NUMBER 2 OF 2010**

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

Stormwater Amendments to Town of Danby Zoning Ordinance

SECTION 1: This Local Law shall be known as “Local Law Number 2 of 2010.” Local Law Number 2 of 2010 applies only within the Town of Danby, Tompkins County, New York. The purpose of this Local Law is to update the Town’s Zoning Ordinance to ensure that the requirements of the Town of Danby Stormwater Local Law are incorporated into the Zoning Ordinance, or appropriately referenced therein, so as to ensure that the goals of zoning and stormwater control are mutually achieved.

SECTION 2: Article V of The Town of Danby Zoning Ordinance, entitled “GENERAL PROVISIONS,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, and as amended through May 11, 2005, be and hereby is amended by adding a new Section 517 that reads as follows:

Section 517 - STORMWATER REQUIREMENTS. 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.

SECTION 3: Article VII of The Town of Danby Zoning Ordinance, entitled “ZONE REGULATIONS,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, and as amended through May 11, 2005, be and hereby is amended by adding a new Section 712 that reads as follows:

Section 712 - STORMWATER REQUIREMENTS. 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.

SECTION 4: Article VIII of The Town of Danby Zoning Ordinance, entitled “SITE PLAN REVIEW AND APPROVAL PROCEDURES,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, and as amended through May 11, 2005, be and hereby is amended as follows:

A. Subsection 2 of Section 800 is amended to read as follows:

2. 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.

B. By adding a new subsection 4 to Section 801 as follows:

4. 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.

C. Subdivision 1 of Section 802 is amended to read as follows:

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.

D. By adding a new subdivision 12 to Section 805 as follows:

12. 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.

E. Section 806 is amended to read as follows:

1. 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.

SECTION 5: Article IX of The Town of Danby Zoning Ordinance, entitled “SPECIAL PERMITS,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, and as amended through May 11, 2005, be and hereby is amended as follows:

A. By adding a new Subdivision 7 to Section 900 that reads as follows:

7. **STORMWATER.** 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.

B. Subsection 5 of Section 901 is amended to read as follows:

5. Natural surface water drainageways are not adversely affected, and all Surface Waters and Wetlands are not adversely affected by Stormwater Runoff, Sediments, Sedimentation, Erosion, Point Source Pollution, Nonpoint Source Pollution, Pollutants of Concern, and Stormwater Hotspots, as such terms are defined and used in the Town’s Stormwater Local Law.

SECTION 6: Article X of The Town of Danby Zoning Ordinance, entitled “NON-CONFORMING USES,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, and as amended through May 11, 2005, be and hereby is amended by adding a new Section 1009 as follows:

Section 1009 - STORMWATER REQUIREMENTS. 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.

SECTION 7: Article XI of the Town of Danby Zoning Ordinance, entitled “ADMINISTRATION,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, as amended through May 11, 2005, and as further amended by Local Law Number 2 of 2007 (entitled “Amending the Zoning Ordinance of the Town of Danby related to Permits to Build, Board of Appeals and Planning Board”), be and hereby is further amended as follows:

A. Subsection 2 of Section 1101 is amended as follows:

1. Each property owner shall, with respect to his or her property, be responsible for compliance with all the 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.

B. Section 1104, entitled “Variances,” is amended as follows:

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.

SECTION 8: Appendix I of the Town of Danby Zoning Ordinance, “DEFINITIONS,” as adopted by the Town Board of the Town of Danby upon December 11, 1991, as amended through May 11, 2005, and as further amended by Local Law Number 2 of 2007 (entitled “Amending the Zoning Ordinance of the Town of Danby related to Permits to Build, Board of Appeals and Planning Board”), be and hereby is further amended to add the following Definitions:

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.

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.

SECTION 9: Severability: If any clause or provision of this Local Law shall be held invalid or unenforceable by a court or tribunal of competent jurisdiction, such holding shall not affect or invalidate the remainder of this Local Law and any such invalidity or unenforceability shall be confined in its operation to the clause or provision directly involved in the controversy in which such holding shall have been rendered.

SECTION 10: This Local Law shall take effect immediately, and the Town Clerk is directed to immediately file a copy of this Local Law with the NYS Secretary of State as required by law.

Adopted by the Danby Town Board on February 8, 2010