

# **TOWN OF DANUBE**

## **SITE PLAN REVIEW LOCAL LAW**

### **Number 1 of 2002**

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# **TOWN OF DANUBE**

## **SITE PLAN REVIEW LOCAL LAW**

### **ARTICLE I: GENERAL PROVISIONS**

#### **Section 105. Enactment and Authorization**

The Town Board of the Town of Danube, Herkimer County, New York, does hereby ordain and enact the Town of Danube Site Plan Review Law pursuant of the authority and provisions of Section 10 of the Municipal 1-Home Rule Law and Section 274-a of the Town Law.

#### **Section 110. Title**

This local law shall be known as the "Town of Danube Site Plan Review Local Law #1 of 2002".

#### **Section 115. Intent and Purpose**

Through site plan review, it is the intent of this local law to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure that optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town through review and approval of site plans. Toward this end, these regulations establish standards for preserving water quality, controlling air quality and traffic congestion, ensuring site access for emergency services (e.g. fire/police protection and ambulance services), providing adequate water supply and safe and proper means for sewage and solid waste disposal, and guarding neighboring properties against intrusive development impacts.

#### **Section 120. Planning Board Authority to Review Site Plans**

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses with in the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

#### **Section 125. Interpretation, Conflict, and Separability**

A. In their interpretation and application, the provisions of this law shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.

B. Where the conditions imposed by any provisions of this law are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this law or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

C. The provisions of this law are separable. If a section, sentence, clause, or phrase of this law is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this law.

### **ARTICLE II: DEFINITIONS**

#### **Section 205. Purpose**

Unless otherwise expressly stated, the following terms shall, for the purpose of this law, have the meaning herein indicated.

#### **Section 210. Definitions**

**Access:** entrance way for vehicles to leave or enter a property or lot from a public highway or private road.

**Accessory Structure or Use:** a secondary structure or use on the same lot or on a contiguous lot in the same ownership which is associated with principle use or structure, and which is incidental and subordinate to the principle use or structure.

**Alteration, Structural:** to change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan or layout, the exterior architectural features; or the exit facilities of a structure; or the relocation of a building from one location to another.

**Antenna:** a device used in communications which converts radio frequency electrical energy to radiated electromagnetic energy and vice versa in a transmitting station, an antenna is the device from which radio waves are emitted.

**Applicant:** the person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.

**Aquifer:** an underground geologic formation that contains and transmits significant quantities of groundwater.

**Area, Building:** the total area taken on a horizontal plane at the main grade level of the principle building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**Area, Floor:** the total interior floor space measured in square feet of a structure.

**Area, Lot:** the total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.

**Average Daily Traffic:** the average number of vehicles per day that enter and leave the premises or travel over a specific section of road.

**Average Peak hour Traffic:** the average number of vehicles per hour, at the time of peak traffic volume, that enter and leave the premises or travel over a specific section of road.

**Base Floodplain:** see "100 Year Floodplain"

**Billboard:** see "Sign, Advertising".

**Buffer Area:** an undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g., noise, dust, visibility, glare, etc.) on adjacent properties.

**Building:** a structure designed to be used as a place of occupancy, business, storage, or shelter. The term "building" shall include the term "structure" as well as receiving and transmitting commercial, radio, television and other utility communication towers, mobile homes, and modular homes.

**Building Area Coverage:** the percentage of the lot area covered by combined area of all buildings on the lot.

**Building, Principal:** the building on a lot that houses the primary use on a parcel of land.

**Change of Use (Conversion):** the change of use or occupancy of a building from either residential, commercial, or industrial to one of the other uses, or a change in the intensity of the same use.

**Co-Location:** the mounting of Personal Wireless Service Facilities used by two or more persons, firms or corporations on the same equipment mounting structure.

**Commercial Use:** activity involving the sale of goods or services carried out for profit.

**Cul-de-sac:** a designated turn-around area for vehicles at the end of a street or road.

**Curb-cut:** a defined opening to provide vehicular access from public highway to a lot or property.

**Drainage:** a system of swales, ditches, sheet drainage, and culverts, catchbasins and piping to convey stormwater runoff to retention areas and stabilized discharge points.

**Driveway:** private entrance drive that is less than five hundred (500) feet in length and which commonly leads to the principal use.

**Dwelling:** a complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

**Easement:** the right to use the land of another, obtained through the purchase of use rights from a landowner, for a special purpose consistent with the property's current use.

**Egress:** a one-way access from a property leading onto a public highway or private road.

**Environmental Assessment Form (EAF):** a form used to determine whether a project would have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or long SEQR Environmental Assessment Form will be completed.

**Environmental Impact Statement (EIS):** a document prepared pursuant to SEQR, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

**Equipment Mounting Structure:** any structure used primarily to support reception or transmission equipment including, but not limited to, antenna support structures, towers and monopoles.

**Erosion:** the wearing away of surface soils by action of wind or water.

**Erosion Control:** use or reseed, revegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion

**Fire Lane:** access for emergency fire-fighting vehicles.

**Flood Hazard, Area of:** land within a community subject to a one percent (1%) or greater chance of flooding in any given year. Also commonly referred to as base floodplain or 100 year floodplain.

**Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

**Grading:** the alteration of land for site development purposes including, but not limited to construction or roads, building construction, drainage areas, and parking.

**Gross Floor Area:** the total interior area of a building, multiplied by the number of floors.

**Highway Work Permit:** statement of approval by the authorized agency (State, County or Town) for proposed work in the road right-of-way.

**Impervious Surface Coverage:** the percentage of the lot covered by buildings, parking areas, walkways or other surfaces covered with paved surface or surface that is impervious to water.

**Industrial Use:** the use of buildings or land, or both, for the purpose of manufacturing or producing, in whole or in part, any type of product or goods, and uses that involve the subsequent sale, trade or storage or such goods.

**Ingress:** a one-way access from a public highway or private road leading into a lot or property.

**Junkyard:** a lot, land or structure, or part thereof used for collecting storage, and sale of waste paper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of parts thereof or for the storing or abandonment of more than one unlicensed or unregistered motor vehicles for six (6) months or more.

**Lot:** a designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

**Lot Coverage:** the percentage of the lot area covered by the combined area of all buildings, structures, parking areas, or other impervious surfaces on the lot.

**Mobile Manufactured Home:** a mobile manufactured home is a structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air—conditioning and electrical systems contained therein. Every mobile manufactured home shall bear a plate of **Approval from HUD**.

**Mobile Home Park:** a residential use in which two (2) or more mobile manufactured homes are located on a single property.

**Net Floor Area:** the total usable interior floor area of a structure (excludes such elements as walls, stairwells, elevators, etc.).

**Off Street Parking:** area provided for parking off any public or private road.

**Owner/Operator:** person, persons, corporation, etc. that owns and/or operates the business or facility.

**Parking Space:** an area reserved for the parking of a motor vehicle.

**Peak Hours of Operation:** the busiest hours of operation in an average 24-hour period of a non—residential use, which may represent the time of heaviest production or of customer or employee traffic, depending on the nature of the use.

**Peak Season:** the weeks or months or any period within an average year when the most activity occurs for a given use, group of uses or an area.

**Person:** means any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

**Personal Wireless Service:** commercial mobile services, wireless telecommunication services using duly authorized devices which do not require individual licenses (excluding the provision of direct-to-home satellite services), and common carrier wireless exchanges including cellular radiotelephone, specialized mobile radio system and personal communication services.

**Personal Wireless Service Facilities:** a facility for the provision of Personal Wireless Services. A Personal Wireless Service Facility includes, but is not limited to, an Antenna Equipment Mounting Structure and accessory buildings and equipment.

**Phased Development:** development that occurs in defined stages (e.g. a 20—unit townhouse project built in two separate 10—unit stages).

**Principal Use:** the main use of a lot or structure.

**Public Utility Station or Structure:** a facility other than a Personal Wireless Service Facility for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage, collection of other such services to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include offices or administration buildings.

**Road, Private:** an access drive or roadway that is longer than five hundred (500) feet, privately owned and maintained, and not meant for use by the general public.

**Road:** a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal means of access to abutting property.

**Road, Right-of-Way:** an area defined by a boundary that provides for road construction, maintenance, improvement and/or widening.

**Road, Secondary:** where the subject property has frontage on two or more roads, this refers to the second (or least) most intensively used road.

**Roadway Edge:** the edge of one—half of the road from the centerline.

**Runoff:** surface water that flows onto, within, and/or off of the site area.

**Screening:** vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses.

**Sediment:** soils or other surfacial materials transported by surface water as a product of erosion.

**Sedimentation (Siltation):** the deposition of sediment and silt in drainage ways, watercourses and waterbodies that may result in pollution, murkiness, accumulation, and blockage.

**Separation Distance:** distance between the two closest points of reference between two facilities, structures, uses or properties (e.g. the distance between an on—site septic system absorption field and a well).

**Septic System:** a subsurface sewage disposal system, which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of the waste.

**State Environmental Quality Review (SEQR):** review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law Section 8—0113), which incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

**Setback:** a minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted

**Sight Distance:** the length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

**Sign:** a name, identification, description, display, or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court of public office notices or any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, county, municipality, school, or religious group.

**Sign, Advertising:** a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located. Advertising signs may also be referred to as “billboards”.

**Sign, Business:** a sign which directs attention to a business, service, profession, organization or industry located on the premises where the sign is displayed to the type of products sold, manufactured, or assembled and/or to service or entertainment offered on said premises. A “for sale” or “to let” sign relating to the property on which it is displayed shall be deemed a business sign.

**Sign, Freestanding:** a sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

**Sign, Height of:** the distance from the ground level, measured from the midpoint of the base of the sign, to the top of the sign.

**Sign, Portable:** any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

**Sign, Temporary:** a sign that advertises or gives direction to a business or activity that will terminate within seven days.

**Siltation Control:** placement of siltation barriers such as sod, matting, hay bale barriers, or silt fencing or other methods to prevent pollution and blockage of watercourses and waterbeds by silt and other sediment.

**Site Plan:** a rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the applicable ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

**Sketch Plan:** conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board Review.

**Sketch Plan Conference:** initial optional Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements will be prior to submitting the site plan.

**Start of Construction:** the initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling; installation of roads; excavation for a basement, footings, foundations or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

**Structure:** anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc., excepting outdoor areas such as paved areas and walkways.

**Use, Accessory:** a use or structure that is incidental but associated with the principal use such as a separate garage or shed, fencing, and recreational facilities (e.g. pool, tennis court, etc.).

**Use, Principal:** the specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

**Waterbody:** any natural or man-made body of water, such as a pond, lake, wetland or wet area which does not necessarily flow in a definite direction or course.

**Watercourse:** a channel in which a flow of water occurs either continuously or intermittently.

**Water, Ground:** water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

**Watershed:** the area that is a drainage basin for a particular freshwater body.

**Water, Surface:** water contained in streams, rivers, ponds, wet areas, lakes and other waterbodies and watercourses, or that drains across land.

**Wetlands:** lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation.

**100 Year Floodplain:** area where there is one percent (1%) or greater chance of flooding in any given year.

## **ARTICLE III: APPLICABILITY**

### **Section 305. Uses Requiring Site Plan Approval**

All new developed land use activities within the Town shall require site plan review and approval before being undertaken, except those specifically exempted in Article III, Section 305 B.

#### **A. While not all inclusive, the following uses shall require site plan approval:**

1. All new construction or replacement of commercial, industrial, or multi-family uses.
2. Mobile home parks, Recreational Vehicle Parks, Campgrounds, Home Occupations, Retail Establishments, Professional Offices, Shopping Centers, Mini-Malls.
3. The construction of exterior alterations or additions of non-residential structures.
4. Land uses or actions that will create objectionable, noxious or offensive odors including, but not limited to: landfills, commercial composting operations, manure lagoons, and trench silos with the dimensions of 100' x 30' x 10' (LWH) and larger will require site plan approval.
5. Land uses or actions that will produce operating noise exceeding the local ambient noise levels for noise outside of structures.
6. Developers, Real Estate Dealers, Firms, Corporations, Associations, Organizations will be required to do a site plan review for well location guaranteeing adequate, safety tested and passed water supplies and location (including percolation testing) for adequate septic systems before the property can be sold.
7. A change of ownership of a commercial/industrial property

#### **B. Exempted Uses:**

1. Construction of one or two family dwellings, ordinary accessory structures, and related land use activities.
2. Ordinary repair or maintenance of existing structures or uses.
3. Agricultural buildings and land uses.
4. Ordinary agricultural, non-commercial recreational and forest wildlife management practices.
5. Incidental landscaping or grading or building of pond.
6. Exterior alterations or additions to:
  - a) An existing residential structure which do not substantially change its nature or use
  - b) Any commercial or industrial structure which will not increase the gross floor area of the existing structure by more than twenty—five percent (25%) within any five (5) year period.
7. Interior alterations that do not change the nature or use of a commercial or industrial structure.
8. Alterations to home occupations that do not increase the gross floor area of the existing structure by more than thirty percent (30%).

#### **C. Existing Uses and Structures:**

This law does not apply to uses and structures that are lawfully in existence as of the date this law becomes effective. Any use that would otherwise be subject to this law, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided such use or structure has started construction prior to the effective date of this law and is fully constructed and completed within one year after the effective date of these regulations.

#### **D. Uncertain Applicability:**

Any person uncertain of the applicability of this law to a given land use activity may apply in writing to the Town of Danube Planning Board for a written jurisdictional determination.

## **ARTICLE IV: PROCEDURES**

### **Section 405. General**

Any person, before undertaking any new land use activity at any location within the Town for which this law requires site plan, shall submit a site plan together with appropriate supporting data to the Planning Board for review and approval in accordance with the standards and procedures set forth in this law.



#### **Section 410. Sketch Plan**

The applicant is strongly encouraged to meet with the Planning Board prior to submission of a site plan application. This informal meeting is suggested to prevent unnecessary expenses to the applicant. At the conference, the applicant shall provide either a verbal or written statement and rough sketch describing what is proposed together with a U.S.G.S. topographic map showing the location of the building site and its relationship to the surrounding area. The Board will review the sketch plan and list all necessary information needed by the applicant to complete the site plan approval.

#### **Section 415. Application for Site Plan Approval**

Each application for site plan approval shall be submitted to the Town Clerk ten (10) days prior to the Planning Board's regular scheduled meeting. The Town Clerk shall immediately notify the Planning Board that such application has been filed and the date thereof. Application shall include the application, signed by the current owner or representative thereof; ten (10) copies of the site plan with the information outlined in Article IV, Section 420; an Environmental Assessment Form, as required by the State Environmental Quality Review Act; and the appropriate fee.

#### **Section 420. Site Plan Submission Requirements**

**A. All site plans shall be prepared by a registered architect, landscape architect, licensed land surveyor or professional engineer duly licensed by the State of New York, unless the Planning Board because of the simplicity of the proposal waives this requirement.** For agricultural projects, a Soil and Water Specialist may be used in place of an engineer. Site Plans shall be prepared at a scale of one inch (1 " 24"x36" sheets, with continuation on 8 1/2" x 11" sheets as

necessary for written information.

#### **B. Items required for submission include:**

1. Title of Site Plan, boundaries, and location maps showing site's location in the Town, date, north arrow and scale of the plan.
2. Name and address of the owner of record, developer, and seal of the engineer, architect, surveyor or landscape architect.
3. Name and address of all owners of record of abutting parcels and those within five hundred feet (500') of the property line.
4. All existing lot lines, easements, and rights-of-way. Include areas in acres or square feet, abutting land uses, and the location and size of structures within five hundred feet (500') of the site.
5. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
6. The location of all present and proposed public and private way, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping and walls. Location, type and screening details for all waste disposal containers shall also be shown.
7. The location, height, intensity and bulk type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
8. The location, height, size, materials and design of all proposed signage.
9. The location of all present and proposed utility systems including:
  - a) Sewage or septic systems
  - b) Water supply system
  - c) Telephone, cable and electrical systems
  - d) Storm drainage system including existing and proposed drainage lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, and drainage swales. The Planning Board may also require soil logs, soil profile analysis (deep hole test pits), percolation tests and storm water run-off calculations for large developments or developments in environmentally sensitive areas.
10. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable. There shall be pre and post drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site. The use

of ponds, dry wells, etc., shall be used, but all sites shall have zero increase in runoff so as not to disturb neighboring properties.

11. Existing and proposed topography at five foot (5') contour intervals. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100 year floodplain, the area will be shown, and base flood elevations given. Indicate areas within site where ground removal or filling is required, and give its approximate volume in cubic yards.
12. A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including size and type of plant material, and erosion control measures. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
13. Agricultural District boundaries within two hundred feet (200') of the site's perimeter shall be drawn and identified on the plan.
14. Traffic flow patterns within the site, entrances and exits, loading and unloading area, curb cuts on the site and within two hundred feet (200') of the site.

The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic level
  - b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site
  - c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
15. For new construction or alterations to any existing building, a table containing the following information must be included:
- a) Area of building to be used for a particular use such as retail operation, office, storage, etc.
  - b) Maximum number of employees
  - c) Maximum seating capacity, where applicable
  - d) Number of parking spaces existing and required for the intended use
16. Elevation plans at a scale of 1/4" = 1', for all exterior facades of the proposed structures and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
17. Record of applications and approval status of all necessary permits from federal, state, county and local offices.

**C. An Environmental Assessment Form** (either short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

**D. Agricultural Data Statement.** The applicant must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district.

#### **Section 425. Less Intensive Review**

The Planning Board may elect to conduct a less intensive review for minor types of projects that have little or no adverse impacts on neighboring properties and uses. Certain and/or all requirements of Article IV, B, Section 11, above for such proposed uses may be waived where warranted. The Planning Board must state its grounds for waiving certain submission requirements in writing and file such statement along with the site plan application and supporting documents.

#### **Section 430. Acceptance of Site Plan Application**

The Planning Board shall, within thirty (30) days of a site plan application being filed begin the review process. If the application is inadequate or lacking information as outlined in Article IV, Sections 415, 420, or 445, then the Planning Board may, in writing, request further information from the applicant. The time period in which the Planning Board must make a recommendation may be extended by written consent of the applicant and the Planning Board.

### **Section 435. Segmentation**

The site plan and associated maps shall include all proposed phases of development. Site Plan approval shall be based on the total planned project in order to facilitate the assessment of all potential developmental impacts. The Planning Board shall consider applications incomplete where there is a reason to believe the application applies only to a segment of the total planned development. In such situations, the Board shall return such application to the applicant together with a letter stating the basis for its determination.

### **Section 440. Referrals to Other Agencies and Boards**

#### **A. Coordinated Review:**

The Planning Board may refer the site plan for review and comment to local, and county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to, the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.

#### **B. Required Referral:**

Whenever any Site Plan involves real property in an area described in Section 239-m of the General Municipal Law, said Site Plan shall be referred to the Oneida-Herkimer County Planning Board for their review and approval pursuant to Section 239-m of the General Municipal Law.

The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modifications or disapproval. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its action with the County Planning Board within seven (7) days after final action.

### **Section 445. SEQR Compliance**

The time limitations of Section 455 shall not apply until the conclusion of the SEQR process.

After the site plan has been accepted as complete, the applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval. The Planning Board shall classify the application according to the New York State Environmental Quality Review Act, and review the Environmental Assessment Form and decide:

- A. If additional information is needed to render a determination of significance. The Planning Board will specify exactly what the applicant needs to supply. OR
- B. If the information is provided and the project is identified as having small to moderate impacts with little significance, then a negative declaration can be given. OR
- C. If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full EIS will be provided.

The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within sixty-two (62) days of receipt of the accepted site plan application. The Planning Board shall mail notice of the public hearing to the applicant at least ten (10) days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. If the application, requires a public hearing and 239-m review by the Oneida-Herkimer County Planning Board, then the Board shall mail notice of the public hearing to the County Planning Board ten (10) days prior to said public hearing.

### **Section 455. Planning Board Action on Site Plan**

The Planning Board shall make a decision on the application within sixty-two (62) days after the public hearing. If no public hearing is held, a decision on the application shall be made within 62 days of the receipt of a complete site plan application. The time within which the Planning Board must render a decision may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall render its decision to either approve, approve with modifications, or disapprove the site plan. The decision of the Planning Board shall be filed in the office of the Town Clerk immediately and a copy mailed to the applicant.

**A. Approval:** Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall also be sent to the building inspector.

**B. Approval with Modifications:**

The Planning Board may approve the site plan and require that specific modifications be made. A copy of the written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail. Upon approval, and after payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with modifications with the Town Clerk. A copy of the written statement of approval with modifications shall also be sent to the building codes enforcer.

**C. Disapproval:**

Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail along with letter stating the Planning Board's reasons for disapproval. A copy of the written statement of disapproval shall also be sent to the building inspector.

**Section 460. Extension of Time to Render Decision**

The time period which the Planning Board must render its decision on the Site Plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time specified or agreed upon between the applicant and the Planning Board, shall constitute Planning Board approval of the site plan as submitted or last amended.

**ARTICLE V: DESIGN STANDARDS**

**Section 505. General Objectives**

Sites to be developed shall be of such character that they can be safely used for building purposes without danger to the public health or safety, or peril from fire, flood, or other causes. The proposed development shall be visually compatible with the character of the community to the extent feasible. Vegetative screening shall separate commercial, industrial and other non-residential uses from residential and historical properties.

Site development shall comply with the following objectives:

- A. Adequate and safe vehicular circulation between site and street network.
- B. Safe and adequate interior site circulation, parking and loading facilities.
- C. Sites should be accessible year-round with particular attention to access for emergency vehicles.
- D. Environmentally sensitive areas shall be protected and left undisturbed.
- E. Adequacy of storm water and drainage facilities.
- F. Compatibility with and protection of adjacent uses, particularly residential and historical uses, through landscaping, vegetative and other screening, buffering, planting and setbacks, method of construction and restrictions on outside activities.
- G. Consideration of aesthetics in the project design and compatibility of signs with neighboring uses.
- H. Mitigation of the adverse effects of smoke, noise, glare, vibration, odors, or noxious and offensive uses, appropriate hours of operation.
- I. Absence of dangerous or hazardous activities.

**Section 510. Lot Development Criteria**

An application for site plan approval shall not be approved unless the proposed use meets the following minimum lot development standards:

**A. General:**

- 1. Minimum 2 Acre Lot
- 2. Sites shall be able to adequately accommodate onsite waste treatment and water facilities unless central sewer and water service is provided.
- 3. Principal and accessory structures shall be set back a minimum of seventy-five (75) feet from the edge of private or public road rights-of-way.

4. Open uses, such as outdoor recreational facilities (e.g. swimming pools, ball fields, playgrounds, etc.) shall have a minimum set back of forty (40) feet to any property line.

#### **B. Environmental Considerations:**

In general, sites to be developed shall avoid areas where the following conditions are present:

1. Slopes greater than fifteen percent (15%)
2. Bedrock less than five (5) feet from the surface and areas of frequent rock outcrops
3. Soils with excessively slow or fast percolation (refer to soil survey reports available from the Herkimer County Soil and Water Conservation District)
4. Flood hazard areas
5. State regulated freshwater wetlands
6. Fringes of waterbeds or watercourses

#### **C. Access Standards:**

Site plan approval shall be conditional upon the applicant obtaining any necessary highway work permits from the jurisdictional permitting authority, e.g. State, county, or town highway departments. In addition, the following access requirements shall apply:

1. Access drives shall be constructed and maintained so as to provide for year round access.
2. In cases where sites have frontage on more than one road, the principal point of access shall be from the more secondary road whenever feasible.
3. There shall be a minimum distance of thirty-five (35) feet between proposed and existing driveways on public roads.
4. Driveways shall be combined whenever possible to minimize the number of access points onto the public highways.
5. There shall be a maximum of two (2) driveway entrances/exits per developed lot.
6. No driveway centerline shall intersect a street line less than seventy (70) feet from the intersection of any two roadways.
7. Driveway grade and width shall be such that adequate and safe access is provided for emergency vehicles during all seasons.
8. The minimum maintained width of driveways should be eighteen (18) feet, which allows for incoming and outgoing vehicles to pass one another safely.

### **Section 515. Sewer and Water**

#### **A. General:**

No site development plan for any use shall be approved unless adequate provision is made for wastewater treatment and for clean potable water supply, as required for the use. The following standards must be met:

1. All site development plans relating to water supply and wastewater treatment shall comply with applicable New York State Department of Health and State Department of Environmental Conservation standards.
2. Where applicable, sewer system permits are required prior to issuance of the building permit for any site development.

### **Section 520. Traffic and On-Site Circulation**

#### **A. General:**

1. Additional traffic generated together with existing traffic shall not exceed the capacity of the highway(s) that serve the development.
2. Where additional traffic is likely to result in a significant decrease in traffic safety conditions, the Planning Board may require the applicant to provide traffic improvements as a condition of site plan approval, or to reduce the size or density of the proposed development.
3. Onsite circulation shall be designed to limit traffic hazards and to avoid conflicts between vehicles and pedestrians.

#### **B. Pedestrian Circulation Systems:**

Where deemed necessary and appropriate, the Planning Board may require sidewalks

1. Examples of facilities where sidewalks may be required include:

- a) Multi-family residential developments
  - b) Institutional buildings (e. g. schools)
  - c) Public recreational facilities
  - d) Shopping Center
2. Sidewalks shall be concrete unless otherwise specified by the Planning Board.

**C. Private Road Standards for Businesses and Sub-divisions:**  
**(See Also Town Road Standards Law)**

- 1. A private access drive longer than live hundred (500) feet shall be classified, for the purpose of this local law, as a private road.
- 2. All private roads shall be constructed to Town standards where they exist; otherwise, they shall be constructed so that in the opinion of the Planning Board they will provide for safe vehicular travel.
- 3. Where two or more properties share a common private road for access, the Planning Board may recommend that the landowners enter into a maintenance agreement to provide for snow removal and general road upkeep. The Town Attorney shall approve such agreement.
- 4. Private dead-end roads shall have a circular turn-around at their terminus with an outside diameter of at least 100 feet.
- 5. Private roads shall not exceed a ten percent (10%) grade unless Town standards provide otherwise.

**Section 525. Off-Street Parking and Loading**

A. Parking: Off-street parking shall be provided to adequately assure the safe and convenient parking of vehicles out of the road right-of-way and in such manner as to afford safe pedestrian access to buildings without traversing a traveled right-of-way.

B. Loading: Off-street loading and unloading facilities shall be provided for commercial or industrial uses of greater than six thousand (6000) square feet.

**Section 530. Flood hazard Areas**

A. General: Construction in those areas designated on the Federal Emergency Management Agency's Flood Insurance Rate Map as areas of special flood hazard, as defined by the one hundred (100) year floodplain boundary, shall be avoided or minimized. Disturbed areas shall be properly stabilized to prevent future damage from storms, heavy runoff and flooding. No onsite sewerage disposal systems shall be placed within the 100-year floodplain. Wells may be located within the 100-year flood boundary subject to the authority having jurisdiction.

B. Structures or Disturbances: Structures or disturbances within the one hundred (100) year flood boundary shall conform with the following standards:

- 1. New development shall not result in a rise in flood elevations on or off the site, either upstream or downstream.
- 2. Finished grade of the lowest habitable floor of a structure shall be at least one foot above base flood elevation.
- 3. No Lakes, ponds, or natural areas which detain natural drainage flows shall be filled without approval from the appropriate permitting agency.
- 4. All structures shall be floodproofed and securely anchored unless otherwise exempted.

**Section 535. Freshwater Wetlands**

A. General: Applicants for building permits that affect areas regulated by the New York State Department of Environmental Conservation (DEC) as Freshwater wetlands shall comply with Article 24 and Title 23 of Article 71, of the Environmental Conservation Law. Freshwater wetland boundaries shall be flagged on the site by the DEC. The wetland boundary and a 100 foot protective buffer shall be indicated on site plans for properties with such wetlands. The Plan shall bear the signature of the DEC officer responsible for the field flagging.

B. Minimum Standards: The following minimum standards shall apply on sites with DEC regulated wetlands:

- 1. No construction within the wetland or 100 foot buffer without the required permit. Any disturbance shall require a DEC designated wetland disturbance permit.
- 2. No sewage disposal systems shall be located within the freshwater wetland boundary or the 100 foot buffer zone.

**Section 540. Protection of Streams and Other Waterbodies**

No alteration of watercourses, whether by excavation, filling, grading, clearing, draining, or otherwise, shall be made

that affects the water levels or flow of such watercourses without review as to the affect of such alteration and any related facilities on water recharge areas, water table levels, water pollution, aquatic animal and plant life, temperature change, drainage, flooding, runoff and erosion. This review and approval of such alteration shall be made by the Planning Board in consultation with the Soil Conservation Service and the DEC. Where the applicant must obtain a stream disturbance or discharge permit from the DEC, Planning Board approval shall be conditional on the DEC's permit approval.

#### **Section 545. Drainage, Grading, Erosion and Siltation**

A. General: Development on sites with steep slopes (grades of fifteen percent (15%) or greater), streams, wet areas and wetlands, and soils subject to erosion and high runoff volume, shall be minimized wherever possible. Disturbance of any such areas shall be stabilized and reclaimed as much as possible during and after construction.

B. Purpose: The purpose of the drainage, erosion and siltation control measures is:

1. To guide drainage and prevent increases in runoff on and off the site.
2. To prevent destruction and loss of soils on and off the site from increased runoff
3. To prevent siltation of waterbodies, watercourses and wet areas on and off the site and subsequent harm to or loss of aquatic plant and animal life.

C. Runoff Control: The Planning Board shall require the developer to provide Storm Runoff Control Plan where site conditions warrant the preparation of such a plan. It shall be based on adequate topographic surveys, soils investigations and runoff projections.

D. Grading: Grading shall be minimized to the extent possible on sites with slopes over fifteen percent (15%), streams, wet areas and wetlands, and soils subject to erosion and high runoff volume. There shall be no grading permitted on slopes greater than twenty-five percent (25%) without Planning Board Approval.

1. A Land Grading Plan shall be prepared for all construction and development sites that involve grading. The plan should be for grading proposed for both during and after construction.

2. The grading plan shall be based upon adequate topographic surveys and investigations, information about soil type, depth, properties and slope. Such plans shall show the location, slope, cut, fill and finish elevation of the surfaces to be graded. The plan shall also show the proposed methods for the disposal of runoff water, slope stabilization, erosion control and drainage.

#### **Section 550. Landscaping**

A. General: All portions of properties that are not intended for development shall remain in their natural state or be suitably landscaped with planting of trees and shrubbery. Landscaping shall minimize erosion and stormwater runoff, provide necessary buffering and generally seek to blend the proposed use with the character of the Town.

B. Landscaping Standards: The following landscaping standards shall be met:

1. Landscaping shall be appropriate to the project and the natural vegetation cover shall be maintained where possible, to the extent that alterations in the site plan may be required.
2. A Landscape Plan shall include plant selection suitable for the specific site. Native species of plants shall be included in the plan whenever possible.
3. Healthy trees with diameters of twelve (12) inches or greater measured at chest height shall be marked on the plan and preserved to the extent possible.
4. Pedestrian pathways, shall be covered with crushed stone, bark, gravel, brick, stone, or paved as appropriate, to allow drainage and prevent erosion.
5. Maintenance of Natural Landscaping - Wherever possible, natural vegetation shall be maintained by appropriate construction practices on site layout.
6. Maintenance - All planting shown on an approved landscape or site landscape or development plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with plan's specifications.

#### **Section 555. Screening/Buffering**

A landscaped area may be required to protect neighboring residential properties, historical properties, properties of a different land use than the one proposed in the plan, and passing motorists from the view of facilities, buildings, and parking areas of the site development, as warranted. Landscaped areas are subject to the following:

A. Unless waived by the Planning Board, a minimum permanent vegetated buffer of a width of at least ten (10) feet shall separate non-residential uses from adjacent residential and historical properties, or from the street. Plantings

shall be indicated on the site plan and shall meet the following standards:

1. Plant materials shall be a minimum of four (feet) in height when planted and shall be spaced to form a continuous, solid screen at maturity. Generally, plants/trees shall be spaced apart at distances no greater than ten (10) feet on center.
2. Where appropriate, a wall, fence, or earthen berm of location, height, and design approved by the Planning Board, may be substituted for the required planting.
3. Modifications. Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.

### **Section 560. Signs**

A. General: A sign shall be permitted to advertise non-residential uses on site. Signs shall be of such design and construction so as to convey information with clarity and without disruption to the character of the community. Such signs shall conform to the following general design principles:

1. The lowest point of hanging sign in a pedestrian circulation area should be at least seven and one-half (7 1/2) feet above the ground.
2. Signs should be a subordinate part of the local landscape and as small as practicable.
3. Signs should have a minimum of information in order to avoid clutter and confusion.
4. Whenever feasible, multiple signs should be combined into one to avoid clutter.
5. No sign shall be located so as to project into the public right-of-way or to be a hazard to traffic or pedestrians, to obstruct any door, window, ventilating system or fire escape or to cause any other hazard to public safety.

B. Exempt Signs: The following signs shall be exempt from the requirements of this section:

1. Historical markers, tablets and statues, memorial signs and plaques, names of buildings and dates of erection, when cut into masonry surface or when constructed of bronze, stainless steel, or similar materials; and emblems installed by government agencies, religious or nonprofit organizations; not exceeding thirty-two (32) square feet.
2. Flags and insignia of any government except when displayed in connection with a commercial promotion.
3. Traffic or other municipal signs.
4. The Town may authorize legal notices or such temporary, emergency, or non-advertising signs
5. A farm produce sign not exceeding six (6) square feet.
6. Temporary non-illuminated signs on the premises for up to one year for the following purposes:
  - a) Real estate "For Sale" or "For Rent" signs not exceeding six (6) square feet and located on the front wall of the building or if freestanding, not nearer than ten (10) feet to any roadway edge or property line.
  - b) Signs which announce anticipated occupancy of a site or building or identifies the contractors, architects, engineers, etc., on a building or site under construction should not exceed twenty (20) square feet in area. Such sign shall be a minimum of ten (10) feet from a roadway edge on the subject property.
7. Temporary off-premises directional signs for the convenience of the general public not exceeding two (2) square feet in area.
8. Signs or bulletin boards customarily incidental to places of worship, libraries or museums, erected on the premises for purposes of displaying temporary public information notices, not exceeding fifteen (15) square feet in area.

C. Prohibitions: The following signs shall be prohibited unless otherwise exempted by the Planning Board:

1. Except for holiday seasons, grand openings and other special or temporary events, not to exceed thirty (30) days, no sign shall include or consist of pennants, ribbons, streamers, spinners or other moving, fluttering or revolving devices.
2. No sign shall contain flashing lights.
3. No revolving, moving or animated signs shall be permitted.
4. No advertising billboards shall be allowed on-site for a proposed use.
5. No temporary, movable signs, except for holiday seasons, grand openings, and other special events, not to exceed sixty (60) days, shall be allowed.

D. Freestanding Signs: All freestanding signs shall comply with the following standards:

1. Only one freestanding sign, which may be doublefaced, shall be permitted for the primary frontage of a property on a public street. Not more than one freestanding sign shall be permitted for each business structure regardless of the number of stores housed therein.
2. All signs should be erected a minimum of fifteen (15) feet from any roadway edge.
3. The maximum height for a freestanding sign, unless otherwise indicated, shall be fifteen (15) feet.

E. Building Signs: Signs attached to a building shall conform to the following standards:



1. The maximum area of the sign shall not exceed ten (10) percent of the building face area.
2. Signs shall not project above the highest point along the face of the building.
3. Iconic signs, such as barber poles, eye glasses, etc., which are traditional in appearance and size should not extend more than four (4) feet from a building wall-nor occupy a space of more than fifteen (15) square feet when viewed from any angle.
4. One sign not exceeding four (4) square feet in area may be hung under a roof overhang perpendicular to each store front in a shopping center.
5. Directional signs for pedestrian and traffic control should not exceed four (4) square feet in area each.

#### **Section 565. Utilities/Lighting**

A. In all multi-family residential developments of twenty (20) units or more, the Planning Board may require that all utilities, exclusive of transformers, be placed underground at the time of initial construction. Required utilities may include water, sewer, storm drainage, telephone, electricity, gas and wiring for streetlights.

B. Reasonable provision shall be made for extension of utilities to adjoining properties, including installation of water gates and manholes if necessary and the granting and recording of easements as required.

C. Lighting: Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. Lighting shall conform to the following standards:

1. Lighting fixtures shall be a type approved by the Planning Board.
2. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties.
3. The style of the light and light standard should be consistent with the architectural style of the building and surrounding area.
4. The maximum height of freestanding lights should not exceed twenty (20) feet.

#### **Section 570. Solid Waste Disposal**

A. Provision for safe and sanitary storage and disposal of anticipated solid and process waste shall be shown and/or described on the site plan

B. Waste containers shall be effectively screened from public view and view from adjacent properties.

#### **Section 575. Open Space and Recreation**

Planned-unit developments, planned-unit residential developments and residential cluster developments shall be required to provide open space. Developed open space shall be designed to provide active recreational facilities to serve the residents of the development. Undeveloped open space shall be designed to preserve important site amenities and environmentally sensitive areas.

### **ARTICLE VI: STANDARDS FOR SPECIFIC USES**

#### **Section 605. Junkyards**

A. Buffering from noise and dust, and screening from visibility shall be provided by a continuous solid border of a wooded fence, dense evergreen planting, or hedgerow. The height of the border buffering or screening shall be not less than eight (8) feet and shall take into consideration the topography of the site.

B. No material shall be stacked, piled or stored above the height of the screening or buffering, planting, or fencing, nor shall material be visible through such border without Planning Board approval.

C. Access drives shall be finished with a surface that will assure that it will be maintained free of dust and debris. Surface materials may include: oil and chip, compact gravel, or blacktop.

D. No junkyard shall be established in any area within two hundred (200) feet from any highway (state, county, local road), lake, stream, well, or property line five hundred (500) feet from any existing dwelling.

E. No material shall be stored on slopes greater than fifteen percent (15%) or on a floodplain.

F. There shall be no on-site disposal or storage of waste oil or any other petroleum or chemical products, nor the on-site storage of used or discarded batteries.

### **Section 610. Mobile home Parks**

The following regulations shall apply to two (2) or more mobile manufactured homes on a single property:

- A. All water supply and wastewater discharge facilities for mobile home units shall conform to appropriate Department of Health Standards.
- B. Automobile Parking. At least two (2) off-street parking spaces for each mobile home shall be provided within the individual mobile home space.
- C. Parking Bay. Each off-street parking space shall be at least eight (8) feet wide and at least twelve (12) feet long and shall have convenient and ready access to a roadway.
- D. Recreation Area. A minimum area of four thousand (4,000) square feet or five percent (5%) of the total property (excluding road rights-of-way), whichever is greater, shall be set aside exclusively for recreation purposes.
- E. Screening and Landscaping. Undisturbed natural vegetation or a landscaped area along exterior lot lines shall provide visual screening from adjacent properties. In addition:
  - 1. Existing vegetation shall be used to the greatest extent possible.
  - 2. Along road frontage a ten (10) foot wide buffer of landscaping shall be provided where feasible, but shall be designed not to obstruct sight distance at points of access.
- F. Internal Road System. The internal road network for mobile home parks shall comply with the following standards:
  - 1. All roads shall provide year-round accessibility for emergency and service vehicles.
  - 2. Roads shall be wide enough for two (2) lanes of traffic.
  - 3. Internal roads shall be a minimum of eighteen (18 ) foot width with shoulders as necessary.
  - 4. Road design shall be either a looped internal road system with one access point or a road network with two (2) separate access points.
  - 5. Any dead-end roads (cul-de-sac) shall be no longer than five hundred (500) feet.
- G. Utilities.
  - 1. Utilities shall be placed underground wherever possible.
  - 2. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties.
- H. Grading plans and runoff control shall be required to protect the natural and man-made landscape.
- I. Development shall be in accordance with time following environmental considerations:
  - 1. Development in flood hazard areas amid wetlands should be avoided or minimized, or shall be designed to prevent floodwater obstruction or damage.
  - 2. Development shall maintain appropriate distances from streams, wetlands and other waterbodies such that ground or surface waters will not be adversely affected by runoff or other site development impacts.
  - 3. Appropriate drainage, erosion and siltation control measures shall be used to prevent and minimize on and off-site disturbances to soils, slopes and waterbodies/watercourses.
- J. There shall be adequate, provision for fire fighting. The Planning Board may require the applicant to provide water storage facilities necessary and appropriate for fire protection.
- K. Other Regulations: Mobile home parks are also subject to any other town, county, or state regulations applicable, including but not limited to, the Health Department's regulations regarding water supply and sewage disposal.

## **ARTICLE VII: GUARANTEE OF SITE IMPROVEMENTS**

### **Section 705. General**

Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been provided by the applicant for improvements not yet completed.

### **Section 710. Performance Guarantee Options**

In order that the Town has the assurance that the construction and installation of such improvements as storm

sewers, water supply, sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with these standards and/or any site plan approval modifications, the Planning Board may require that the applicant enter into one of the following agreements with the Town.

A. Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans. Such bond shall be 1) based on estimate furnished by the applicant, 2) confirmed by the Building Inspector or Town Engineer, and 3) approved by the Planning Board.

B. Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.

#### **Section 715. Conditions**

A. The performance guarantee shall be to the Town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law; and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

B. Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.

C. Certified checks shall be made payable to "The Town of Danube" and will be placed in an escrow account established by the Town for this purpose.

#### **Section 720. Extension of Time**

The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant him/her an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the Town may use as much of the bond or check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable standards and specifications.

#### **Section 725. Schedule of Improvements**

When a certified check or performance bond is issued pursuant to the preceding sections, the Town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the Town of all construction and installation covered by the check deposit or performance bond.

#### **Section 730. Inspections**

At least five (5) days prior to commencing construction of required improvements, the applicant shall pay to the Town Clerk and inspection fee established by the Town of Danube Town Board. Inspections during the installation of improvements shall be made by the Building Inspector to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Building Inspector when each phase of improvements is ready for inspection. Upon acceptable final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the Town of the portion of the performance bond or certified deposit as designated in the contract to cover the cost of such completed work.

### **ARTICLE VIII: ADMINISTRATION/ENFORCEMENT**

#### **Section 805. Site Plan Compliance**

No permit or certificate of occupancy shall be issued by the Building Inspector, except upon the authorization by and in conformity with an approved site plan where required.

**Section 810. Building Inspector**

The Town Board may alternatively appoint some other enforcement officer to conduct inspections and any other enforcement activities required by this local law.

The Town Board may appoint a Building Inspector to carry out the duties assigned by this local law. If appointed, the Building Inspector shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.

**Section 815. Amendments**

The Town Board may, on its own, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.

**Section 820. Enforcement**

A. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this local law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$350.00, or by imprisonment not exceeding twenty (20) days, or both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this local law.

B. In addition to the penalties provided above, the Building Inspector, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.

**Section 825. Appeals**

Any person aggrieved by any decision of the Planning Board, Town Board, Building Inspector, or any other officer, department, or board of the Town involved with the administration and enforcement of this local law, may apply to the Local Court for review under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

**Section 830. Waivers**

The Planning Board may waive, subject to appropriate conditions, the provisions of any or all standards set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents.

**Section 835. Conflict With Other Laws and Severability**

This local law in no way affects the provisions or requirements of any federal, state, or local laws or regulations. If any word, phrase, sentence, part, Section, Subsection, or other portion of this law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, Section, Subsection, or other portion or the proscribed application thereof, shall be severable, and the remaining provisions of this law, and all applications thereof not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

**Section 840. Effective Date**

This local law shall take effect immediately upon filing with the Secretary of State.

**Adopted:** October 15, 2002. Voting: Councilman Allan G. Edmunds – Aye, Councilwoman Lee Ann Stock – Aye, Supervisor Charles M. Welden – Aye, Councilman Donald Klock – Absent, Councilman James Lasher – Absent