

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~ of

Dansville

Town

~~Village~~

Local Law No. 1 of the year 20 05

A local law for the Administration and Enforcement of the New York
(Insert Title)
State Uniform Fire Prevention and Building Code (Uniform Code).

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~

~~City~~ of

Dansville

Town

~~Village~~

as follows:

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**Town of Dansville
1487 Day RD
Arkport, NY 14807
607-295-7223**

Local Law # 1 of 2005

A Local Law for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code).

Be it enacted by the Town Board of the Town of Dansville, Steuben County, and State of New York as follows:

**Article 1
Title**

Section 10: This local law shall be known as "A local law enforcing the Uniform Code in the Town of Dansville, New York."

**Article 2
Purpose**

Section 20: It is the purpose of this local law to promote the health, safety, and general welfare of the inhabitants of the Town of Dansville, New York by the regulation of the Uniform Code within said town. The Town of Dansville shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of fire and inadequate building construction; by regulating building sites and construction methods in the Town of Dansville.

**Article 3
Definitions**

Section 30: AGRICULTURAL BUILDING: A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

Section 31: DWELLING: A building, structure, manufactured housing unit, shelter or portion thereof used exclusively as a residence or sleeping place; a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets. The

minimum floor area of all single family dwellings shall be at least eight hundred (800) square feet. Any building serving as a dwelling which does not have a basement and attic is required to have a storage shed or garage of at least one hundred forty four (144) square feet to make up for the loss of basement or attic storage space. Any manufactured housing unit shall have skirting installed within sixty (60) days of placement upon permanent foundation.

Section 32: BUILDING: A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals or property. The word "building" shall be construed when used herein as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. Any structure used or intended for supporting or sheltering any use or occupancy.

Section 33: ADDITION: An accession, alteration or addition to a building or structure which alters any building or structure and is attached to the building or structure.

Section 34: PRIMARY BUILDING: A building or buildings, in which is conducted the main or principal use of the lot on which said building is situated.

Section 35: OUT BUILDING: Any building on a building site which is not the primary building and which has a floor space of 144 square feet or more.

Section 36: COMMERCIAL BUILDING: A primary building which is neither a dwelling nor an agricultural building.

Section 37: All other definitions shall be as defined below:

- (a) Building or Code definitions shall be as defined by and within the Uniform Code
- (b) General definitions shall be as defined by Webster's Dictionary

Article 4 Permit Necessary

Section 40: It shall be unlawful for any person, persons, or corporation to maintain, construct, alter or extend any building or structure, or addition thereto, within the limits of the Town of Dansville, unless such person, persons, or corporations shall first obtain a permit as hereinafter provided.

Section 41: It shall be unlawful for any person, persons, or corporation to install a new septic system or to modify, alter or extend an existing septic system for any building or structure within the limits of the Town of Dansville unless such person shall first obtain a permit as hereinafter provided.

Article 5
Application for Permit

Section 50: An application for a permit shall be acquired from the Town Clerk, or the Town of Dansville Code Enforcement Officer. Fees for such Permits, Certificates of Occupancy, Certificates of Compliance, Demolition of existing buildings or structures, Fire and Safety Inspections, or any other fees as designated by the Town Board of the Town of Dansville, shall be determined by the Town Board of the Town of Dansville and may be changed from time to time as the Board sees fit, by simple resolution.

Section 51: Minimum features of the program for administration and enforcement of the Uniform Code

(A) Building permits.

(1) Building permits shall be required for all work which must conform to the Uniform Code. The Town of Dansville may exempt from this requirement for a permit the categories of work listed in subparagraphs (i) through (xiii) of this paragraph. An exemption from the requirement to obtain a permit shall not be deemed an authorization for work to be performed in violation of the Uniform Code. The following categories of work may be excluded from the requirement for a building permit:

- (i) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet;
- (ii) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (iii) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground **AND** are not connected to an electric source of any kind;
- (iv) installation of fences which are not part of an enclosure surrounding a swimming pool;
- (v) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids as defined by the Uniform Code;
- (vi) construction of temporary motion picture, television and theater stage sets and scenery;

- (vii) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (viii) installation of partitions or movable cases less than 5'-9" in height;
- (ix) painting, wallpapering, tiling, carpeting, or other similar finish work performed in the routine maintenance of a home;
- (x) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (xi) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;
- (xii) necessary repairs, provided that such repairs do not involve:
 - (a) the removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component, or portion thereof; nor which materially affect the structural features;
 - (b) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) the enlargement, alteration, replacement or relocation of any building system;
 - (d) the removal from service of all or part of a fire protection system for any period of time;
 - (e) fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
 - (f) the installation or extension of electrical systems; and
 - (g) do not include the installation of solid fuel-burning heating appliances and associated chimneys and flues; and
- (xiii) small non-commercial structures not intended for use by one or more persons as quarters for living, sleeping, eating or cooking.

(2) An application for a building permit shall provide sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code and any local law of the Town of Dansville and shall require submission of the following information and documentation:

- (i) the name, address and telephone number of the owner and the applicant if other than owner;
- (ii) the tax map number, the exact street address and exact location on-site of the building project;
- (iii) the occupancy classification of any affected building or structure;
- (iv) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (v) at least 2 sets of construction documents (drawings and/or specifications) that define the scope of the proposed work. These documents and plan shall show conformity with the requirements of this local law, which plan shall indicate the location of all buildings, structures, appurtenances, manufactured housing units, additions and agricultural buildings, existing or proposed, upon the building site, all lot lines, list of adjoining property owners, location of nearest public highway, location of well, and location of septic system;
- (vi) a description of the proposed work;
- (vii) a detailed drawing of any new or altered septic system. Said drawing shall be completed by a licensed, professional engineer as required by the New York State Department of Health and / or in accordance with New York State laws, rules and regulations.

(3) Construction documents shall not be accepted as part of an application for a building permit for any project greater than 1500 square feet in the aggregate (including any project with an addition which increases the size of the original structure to exceed 1500 square feet in the aggregate) unless such documents shall comply with the New York State Education Law: i.e.

- (a) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
- (b) indicate with sufficient clarity and detail the nature and extent of the work proposed;
- (c) substantiate that the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code.

- (d) where applicable, include a site plan that shows any existing and proposed structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the structures and the lot lines.

(4) Applications for a building permit or for an amendment thereto shall be delivered to the Town Clerk with applicable fees. No application shall be accepted for consideration unless and until all fees have been collected by the Town Clerk. The applications shall then be examined by the Code Enforcement Officer to ascertain whether the proposed construction is in substantial conformance with the requirements of this Local law and the Uniform Code. Provisions shall be made for construction documents accepted as part of a permit application to be so marked in writing or by stamp. One set of accepted construction documents shall be retained by the government or agency charged with or accountable for administration and enforcement of the code. One set shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement official.

(5) A building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application. In addition, a permit shall include the directive that the government or agency responsible for enforcement of the code shall be notified immediately in the event of changes occurring during construction. A fee for any amendment to originally accepted documents may be assessed.

(6) Any building permit issued in the Town of Dansville shall become invalid unless the work authorized is completed within two (2) calendar years from date of issuance. An extension of time may be applied for if it is determined that work shall not be completed within two years. The extension would be for a one-year period.

(7) When a building permit has been issued in error because of incorrect, inaccurate or incomplete information submitted, or the work for which the permit was issued violates the Uniform Code, such permit shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the code.

(8) Building permits shall be required to be visibly displayed at the work site and to remain visible until the project has been completed.

(9) If an application is denied, the Code Enforcement Officer shall promptly notify the applicant with any reason for such denial.

(B) Construction inspections.

(1) Permitted work shall be required to remain accessible and exposed until inspected and accepted by the Code Enforcement Officer of the Town of Dansville enforcing the Uniform Code. Permit holders shall be required to notify the Code Enforcement Officer of the Town of Dansville at least forty-eight (48) hours in advance of when construction work is ready for inspection.

(2) Provisions shall be made for inspection of the following elements of the construction process, where applicable:

- (i) work site prior to the issuance of a permit;
- (ii) footing and foundation before backfilling;
- (iii) preparation for concrete slab before pouring;
- (iv) framing;
- (v) building systems, including electric and plumbing – both underground and rough-in;
- (vi) fire resistant construction and / or fire suppression system;
- (vii) fire resistant penetrations;
- (viii) solid fuel burning appliances, chimneys, flues or gas vents;
- (ix) energy code compliance;
- (x) heating, ventilating, air conditioning or other HVAC system;
- (xi) a final inspection after all work authorized by the building permit has been completed;
- (xii) any other inspection required by the Code Enforcement Officer.

(3) After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code. Construction work not in compliance with code provisions shall be required to remain exposed until it has been brought into compliance with the code, been re-inspected, and been found satisfactory as completed.

(4) Owners or occupants shall be responsible for scheduling of all required inspections and for providing access at reasonable times to all parts of the premises within their control to the Code Enforcement Officer, and / or to his/her inspector acting in the performance of their duties.

Article 6 Transfer of Permits

Section 60: All transfers of permits must be registered with the Town of Dansville Code Enforcement Officer.

Article 7
Code Enforcement Official, Duties and Powers

Section 70: No agreement shall be made by which building permits, certificates, orders or appearance tickets related to administration and enforcement of the Uniform Code are issued by other than public officers.

Section 71:

1. (A) The office of Code Enforcement Officer (Code Enforcement Official, Code Enforcement Officer and CEO shall have the same meaning and may be used interchangeably) is hereby created and shall be administered by an appointee of the Town Board. The Code Enforcement Officer shall possess background experience to building construction or fire prevention and shall, within the time constraints proscribed by law, obtain such training as the State of New York shall require for code enforcement officials.

(B) In the absence of the code enforcement official, or in the case of his/her inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board to designate a person to act in behalf of the C.E.O. and to exercise all the powers conferred upon him/her by this ordinance.

(C) The Town Supervisor, with the approval of the Town Board, may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Official and to exercise any portion of the powers and duties of the Code Enforcement Official as directed by him/her.

(D) The compensation for the Code Enforcement Official, acting Code Enforcement Official and Inspectors shall be fixed and adjusted as needed by the Town Board.

(E) The Code Enforcement Official shall administer and enforce all the provisions of the Uniform Code and the provisions of this local law, including receiving building permit applications, reviewing plans and specifications, conducting inspections, issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures, issuing certificates of occupancy, collecting fees as set forth by the Town Board and maintaining and filing all records necessary for the administration of the office to the satisfaction of the Town Board.

(F) Procedure for complaints. Procedures are established for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the code or the laws and/or regulations adopted for administration and enforcement of the code. A complaint shall be considered a bona fide complaint if it is in writing and signed by the complainant with address and telephone number so the Officer may report on their findings after the investigation of the complaint. The Code Enforcement Official shall investigate all bona fide complaints.

(G) The Code Enforcement Official is authorized to pursue administrative actions and in consultation with the Town Attorney, legal action as necessary to abate conditions not in compliance with the New York State Uniform Fire Prevention and Building Code, this local law, or other laws, rules or regulations of the Town of Dansville or of the State of New York.

2. (A) The persons, offices, departments, agencies or combinations thereof authorized and responsible for administration and enforcement of the Uniform Code, or any portion thereof, shall be clearly identified. The Supervisor of the Town of Dansville shall appoint, with the approval of the Town Board, the Code Enforcement Officer, any Deputy or other such person designated to act in behalf of the Code Enforcement Officer. The Officer shall be considered an employee of the Town of Dansville and shall be so indemnified by the New York Public Officers Law.

(B) The Officer, Deputy or other such person shall exercise all the powers conferred upon them by this local law.

(C) The Officer, Deputy or other such person shall not engage in any activity inconsistent with his/her duties or with the interest of his/her office; nor shall they during the term of their employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for, or the supervision of, the construction, alteration, demolition, or maintenance of a building or the preparation of plans or specifications thereof, within the Town, excepting that this provision shall not prohibit any employee from engaging in any such activities in connection with the construction of a building or structure owned by them for their own personal use and occupancy or for the use and occupancy of members of their immediate family and not constructed for sale.

Section 72: Stop work orders. Stop work orders shall be used to halt work that is determined to be contrary to provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be permitted to resume.

Section 73: Certificates of occupancy; certificates of compliance.

(1) A certificate of occupancy or a certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or a certificate of compliance. Occupancy is a violation of this local law until such time as the certificate of occupancy has been issued.

(2) Issuance of a certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, a written statement of structural observations and/or a final report of special inspections, prepared in accordance with the provisions of the Uniform Code, must be received prior to the issuance of the certificate. Also, where applicable, prepared in accordance with the provisions of the Uniform Code must be received prior to the issuance of the certificate. A certificate of occupancy or certificate of compliance shall contain the following information:

- (i) the building permit number;
- (ii) the date of issuance of the permit;
- (iii) the name, address and tax map number of the property;
- (iv) if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;
- (v) the use and occupancy classification of the structure;
- (vi) the type of construction of the structure;
- (vii) the assembly occupant load of the structure;
- (viii) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (ix) any special conditions imposed in connection with the issuance of the building permit; and
- (x) the signature of the official issuing the certificate and the date of issuance.

(3) Temporary occupancy. A certificate allowing temporary occupancy of a structure may not be issued prior to the completion of the work which is the subject of a building permit unless the structure or portions thereof may be occupied safely, any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and all required means of egress from the structure have been provided. The effectiveness of a temporary certificate shall be limited to:

- (a) a very specific period of time, to be a maximum of six (6) months or as determined by the Code Enforcement Officer; and
- (b) exact location of permitted occupancy during which the permit holder shall undertake to bring the entire structure into full compliance with applicable provisions of the Uniform Code.

Section 74: Notification regarding fire or explosion. The chief of any fire department providing fire fighting services for any property within the limits of the Town of Dansville shall notify the Code Enforcement Official of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent, or any fire involving the electrical system of any building, structure, or dwelling.

Section 75: Unsafe structures and equipment as defined under the appropriate provisions of the Uniform Code shall be dealt with by the Code Enforcement Officer. Any unsafe structure or equipment shall be so placarded. Removal of said placard by anyone other than the Code Enforcement Officer shall be a violation of this local law.

Section 76: Operating permits.

(1) Operating permits, with fees as set by the Town Board, shall be required for conducting the activities or using the categories of buildings listed below:

- (i) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4), of the Fire Code of New York State (see 19 NYCRR Part 1225);
- (ii) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
- (iii) use of pyrotechnic devices in assembly occupancies;
- (iv) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- (v) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Code Enforcement Officer.

(2) Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (1) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required and any expense of said test or report shall be borne by the applicant.

(3) An inspection of the premises shall be conducted prior to the issuance of an operating permit.

(4) A single operating permit may apply to more than one hazardous activity.

(5) Operating permits may remain in effect until reissued, renewed or revoked or may be issued for a specified period of time consistent with local conditions.

(6) Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

Section 77: Fire Prevention and Safety Inspections & Property Maintenance Inspections.

(1) Multiple dwellings shall be inspected for the purpose of determining compliance with fire prevention and housing maintenance requirements of the Uniform Code at least once in every thirty-six (36) months. Inspections of such buildings shall include the common areas such as halls, foyers, staircases, etc. and vacant dwelling units. Where tenants of occupied dwelling units allow, the inspection may include such units.

(2) Fire safety inspections of buildings or structures having areas of public assembly as defined in Part 606 of Title 9 of the official Compilation of Codes, Rules and Regulations shall be performed at least once in every twelve (12) months.

(3) All other buildings, uses and occupancies (except one and two family dwellings) shall be inspected at least once in every twenty-four (24) months.

(4) An inspection of a building or dwelling unit may also be performed at any other time upon:

(a) the request of the owner, authorized agent, or tenant

(b) receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exists; or

(c) other reasonable and reliable information that such a violation exists.

(5) Such inspections shall be performed by the Code Enforcement Official.

Section 78: Record keeping. A system of records of the features and activities specified in Section 71 through Section 77 of this Article and of fees charged and collected, if any, shall be established and maintained.

**Article 8
Notices**

Section 80: Upon determination by the Code Enforcement Officer that there has been a violation of any provisions of this local law or regulations issued hereunder, the Code Enforcement Officer shall give notice of such violation in the following manner:

(a) the notice shall be in writing;

(b) the notice shall include a statement of the reasons for its issuance and include statute name and / or number where possible;

- (c) the notice shall state the reasonable time for the performance of any act(s) necessary for compliance;
- (d) the notice shall contain an outline of remedial action, which if taken, will effect compliance;
- (e) the notice shall be served personally, or by certified mail, or as otherwise permitted for service of process in Section 308 of the New York Civil Practice Law and Rules, as amended from time to time, upon the licensees of the licensed premises (as stated in the application) or upon the owner of record of the site shall be deemed good and proper notice under this local law.

Article 9 Appeals

Section 90: Any owner or authorized representative of buildings, structures or premises affected by the Uniform Code or this local law may appeal, within thirty (30) days to the New York State Department of State in Albany, the following actions:

- (A) A determination of the Code Enforcement Officer of a violation of the Uniform Code,
- (B) The application of the Uniform Code where a practical difficulty or unnecessary hardship may result. To consider variances to vary or adopt the strict application of any of the requirements of the Uniform Code whereby such practical difficulty or unnecessary hardship that would deprive the owner of reasonable use of the land or building involved. No variance in the strict application of the Uniform Code shall be granted unless it is found that each of the following facts and conditions exist:
 - (1) That there are special circumstances or conditions, fully described in the application for the Appeal applying to such building and not applying generally to any other buildings in the neighborhood, and that such circumstance or conditions are such that strict application of the provisions of the Uniform Code would deprive the applicant of the reasonable use of such building,
 - (2) that, for reasons fully set forth in the application of the Appeal, the granting of the variance is necessary for the reasonable use of the building and that the variance as granted by the Appeal is the minimum variance that will accomplish this purpose,
 - (3) that the granting of the variance will be in harmony with the general purpose and intent of the Uniform Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare,

(4) in granting any variance, the Appeal shall prescribe any conditions that it deems to be necessary or desirable.

(C) Within thirty (30) days of the conclusion of any hearings held or evidence submitted upon application for appeal submitted to the New York State Department of State for review, a notice of determination shall be made, in writing, and submitted to such applicant with a copy to the Code Enforcement Officer.

(D) If there are any fees or charges imposed for the consideration of or granting of the Appeal, the payment of those fees and charges shall be the sole responsibility of the Appellant.

(E) Any owner or authorized representative of buildings, structures or premises affected by this local law may appeal, the following actions within thirty (30) days to the Town of Dansville Town Board or any such party they may appoint to hear appeals:

(1) A determination of the Code Enforcement Officer of a violation of the local law,

(2) The application of the local law where a practical difficulty or unnecessary hardship may result. To consider variances to vary or adopt the strict application of any of the requirements of the local law whereby such practical difficulty or unnecessary hardship that would deprive the owner of reasonable use of the land or building involved. No variance in the strict application of the local law shall be granted unless it is found that each of the following facts and conditions exist:

- (a) That there are special circumstances or conditions, fully described in the application for the Appeal applying to such building and not applying generally to any other buildings in the neighborhood, and that such circumstance or conditions are such that strict application of the provisions of the local law would deprive the applicant of the reasonable use of such building,
- (b) that, for reasons fully set forth in the application of the Appeal, the granting of the variance is necessary for the reasonable use of the building, or property, and that the variance as granted by the Appeal is the minimum variance that will accomplish this purpose,
- (c) that the granting of the variance will be in harmony with the general purpose and intent of the local law and will not be injurious to the neighborhood or otherwise detrimental to the public welfare,
- (d) in granting any variance, the Appeal shall prescribe any conditions that it deems to be necessary or desirable.

(3) Within thirty (30) days of the conclusion of any hearings held or evidence submitted upon application for appeal submitted to the Town of Dansville Town Board for review, a notice of determination shall be made, in writing, and submitted to such applicant with a copy to the Code Enforcement Officer.

(4) If there are any fees or charges imposed for the consideration of or granting of the Appeal, the payment of those fees and charges shall be the sole responsibility of the Appellant.

Article 10

Minimum Standards for Building Construction Sites

Section 100: No building shall be constructed on a building site smaller than 43,560 square feet (one acre).

Section 101: Each building or addition shall be located not closer than seventy (70) feet from the center of any public roadway or highway upon which the building lot abuts. If this is a corner lot with roadway or highway frontage on two or more sides, each side shall comply with the seventy (70) foot set-back requirement from any roadway or highway upon which the building lot abuts.

Section 102: No building or addition shall be located closer than twenty (20) feet from any boundary line other than the roadway or highway of the building site on which it is constructed.

Article 11

Penalties

Section 110: Any person, persons, firm or corporation who violates any provision of this local law shall be guilty of a violation and subject to a fine of not less than fifty dollars (\$50.00), nor more than one thousand dollars (\$1000.00) per violation and each day or portion thereof shall be considered a separate violation; and in addition, any and all persons who violate any of the provisions of this local law, or who shall omit, neglect or refuse to do any act required by this local law shall severally, for each and every such violation and non-compliance respectively forfeit and pay a civil penalty of up to one hundred dollars (\$100.00). However, where such person has been previously convicted of a violation of this local law, committed within the three years immediately proceeding such new violation, the penalty shall be a fine of not less than one hundred dollars (\$100) nor more than fifteen hundred dollars (\$1,500.00) per violation. The imposition of all penalties for any violation of this local law shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of the provisions of this local law shall not be held to prevent the enforced removal of conditions prohibited by this local law or the taking of such other action as may be authorized by law. Each continued day, or portion thereof, of violation, omission, neglect or refusal after official notification shall constitute a separate violation and be prosecutable as such. No such violation, nor the imposition of any penalty or punishment, shall impose any disability upon nor effect nor impair the credibility as a witness, or otherwise, of any person found guilty of such offense. Such a violation shall not be a crime punishable by imprisonment.

Section 111: Alternatively or in addition to an action to recover the civil penalties provided by Section 110, the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the Code Enforcement Official. Any fees or charges for these actions may be levied to the property owner, either directly or through property taxes by resolution of the Town Board.

Article 12
Effect of Partial Invalidity

Section 120: Should any section or provision of this local law, or the rules and regulations as from time to time promulgated in connection therewith, be declared invalid or unconstitutional for any reason whatsoever, such decision shall not affect the validity of remaining portions of this local law which shall remain in full force and effect.

Article 13
Disclaimer

Section 130: Despite the presence of this Local Law and the Uniform Code, hazards from fire and inadequate building construction may occur. The adoption of this Local Law shall not be deemed, nor inferred, to provide the Town residents absolute protection from injury, loss of property, or loss of life as a result of fire or an accident resulting from inadequate building construction. The Town of Dansville shall be held harmless in all instances and cases excepting gross negligence.

Article 14
Repeal of Previous Laws

Section 140: Local Law #2 of 1970 shall be automatically repealed upon adoption and enactment of this local law.

Article 15
Effective Date

Section 150: This local law shall take effect immediately upon approval by the Town Board of the Town of Dansville in Steuben County, State of New York.

Attachment A: Fee Schedule

ATTACHMENT A:

FEE SCHEDULE FOR PERMITS REQUIRED UNDER
ARTICLE 4 OF THE Local Law #1 of 2005

Building or Dwelling	\$50 up to 1000 square feet in area
Building or Dwelling	\$25 each additional 500 square feet in area
Septic Installation, modification or extension	\$30
Demolition of existing structure	No Charge
Addition or Out-Building	\$25 up to 1000 square feet in area
Addition or Out-Building	\$10 each additional 500 square feet in area
Solid fuel-burning device	\$25
Code Compliance Letter	\$25
Fire & Safety Inspection	\$25
Operating Permit	\$10
1-year Extension of Permit	\$25
Amendment to original application	\$25
Replacement Heating System	No Charge
Replacement Electrical Panel	No Charge

If any building project requires a permit and the project is begun without a permit – all fees are doubled! If the project would have been No Charge – there shall be a minimum \$50 fee for beginning without a permit.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2005 of the ~~(County)(City)(Town)(Village)~~ of Dansville was duly passed by the Town Board on August 11 2005, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.~~
(Name of Legislative Body)
(Elective Chief Executive Officer*)

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~
(Name of Legislative Body)
(Elective Chief Executive Officer*)

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

Town of Dansville

Local Law No. 2 of the year 2017 entitled “WIND ENERGY FACILITY” of the Town of Dansville, New York.

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

Article I

§1 Title

This Local Law may be cited as the “Wind Energy Facility Law of the Town of Dansville, New York.”

§2 Purpose

The Town Board of the Town of Dansville adopts this Local Law to promote the effective and efficient use of the Town’s wind energy resource through Wind Turbine Generators (WTGs), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

§3 Authority

The Town Board of the Town of Dansville enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(6) and (10).
2. New York Statute of Local Governments, § 10 (1) and (7).
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(6), (11), (12), and (14).
4. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).
5. New York Town Law §64(17-a) (protection of aesthetic interests), (23)(General powers).
6. The Town of Dansville Planning Board in accordance with the provisions of 274-A of New York State Town Law shall have the authority to issue Wind Mill Permits for those uses set forth.

§4 Findings

A. The Town Planning Board of the Town of Dansville finds and declares that:

1. Wind energy is an abundant, renewable and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
2. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or energy consumption at that location can be reduced.
3. Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
4. Wind turbines represent significant potential aesthetic impacts because of their large size, lighting, and shadow effects, if not properly sited.
5. If not properly regulated, installation of Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
6. Wind turbines may present a risk to bird and bat populations if not properly sited.
7. Wind turbines may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
8. Without proper planning, construction of Wind Energy Facilities can create traffic problems and damage local roads.
9. If improperly sited, wind turbines can interfere with certain types of communications.

§5 Permits Required; Transfer; Modifications

A. Permit Requirements.

1. No Wind Energy Facility shall be constructed or operated in the Town of Dansville except in compliance with this Local Law.
2. No WTG shall be constructed or operated in the Town of Dansville except with a Wind Energy Facility Permit approved pursuant to this Local Law.
3. No Wind Measurement Tower shall be constructed in the Town of Dansville except pursuant to a Wind Energy Facility Permit issued pursuant to this Local Law.
4. No Small WTG shall be constructed or operated in the Town of Dansville except pursuant to a Wind Energy Permit issued pursuant to this Local Law.

B. Applicability. This Local Law shall apply to all areas of the Town of Dansville.

C. Agricultural Use Exemption. No permit or other approval shall be required under this Chapter for WTG utilized solely for agricultural operations in a state or county agricultural district, as long as the facility is set back at least one time its Total Height from a property line and two times its Total Height from any *permanent* structure on property not owned by the applicant, and does not exceed 120 feet in height. Towers over 120 feet in Total Height utilized solely for agricultural operations in a state or county agricultural district shall apply for a special use permit in accordance with Article II of this Local Law, but shall not require a height variance. Prior to the construction of a WTG under this exemption, the property owner or a designated agent shall submit a sketch plan or building permit application to the Town to demonstrate compliance with the setback requirements.

D. Transfer. Transfer of any Wind Energy Facility or Wind Energy Permit to an entity other than the applicant to whom the permit was issued shall require approval of the Town, which approval shall be granted upon written acceptance of a duly qualified transferee of the obligations of the transferor under this Local Law. No transfer shall eliminate the liability neither of an applicant nor of any other party under this Local Law.

E. Facility Modifications. Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Planning Board approval when (i) there will be no increase in Total Height; (ii) no change in the location of the WTG; (iii) no additional lighting or change in facility color; and (iv) no increase in noise produced by the WTG.

§6 Definitions

As used in this Local Law, the following terms shall have the meanings indicated:

ACCESSORY BUILDINGS - A building that is used for another purpose than the purpose of the principal building on a lot.

AGRICULTURAL OR FARM OPERATIONS - means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation” and “timber processing”. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

EXISTING STRUCTURE- A building or structure 144 square feet or larger.

EAF – Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

RESIDENCE – means any dwelling suitable for year-round habitation existing in the Town of Dansville on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

SEQRA - the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SOUND PRESSURE LEVEL -- means the level which is equaled or exceeded a stated percentage of time. An $L_{eq} 45$ dBA indicates that in any hour of the day 45 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400- 11), or other accepted procedures.

SITE -- The parcel(s) of land where a Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility or has entered an agreement for said Facility or a setback agreement shall not be considered off-site.

SMALL WIND TURBINE GENERATOR (“Small WTG”)-- A wind turbine generator consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce consumption of utility power at that location.

TOTAL HEIGHT -- The height of the tower and the furthest vertical extension of the WTG.

TOWN PLANNING BOARD – For the purposes of this Local Law shall mean the Town of Dansville Planning Board.

WIND TURBINE GENERATOR (“WTG”) -- A machine that converts the kinetic energy of the wind into electricity available for use beyond that used by the machine (commonly known as a "wind turbine" or "windmill").

WIND ENERGY FACILITY - Any WTG, Small WTG, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER – A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND ENERGY PERMIT – A permit granted pursuant to this Local Law granting the holder the right to construct, maintain and operate a Wind Energy Facility.

§7 Applicability

A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed after the effective date of this Local Law.

B. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that

1. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.
2. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Local Law.

§8 Reserved for Future Use

§9 Reserved for Future Use

Article II
Wind Turbine Generators (WTG)

§10 Applications for Wind Energy Permits for Wind Turbine Generators

A. Application Contents. An application for a Wind Energy Permit for individual WTG shall include the following:

1. Applicant Information. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Property Owner Information and Authorization. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Adjacent Owners. A list of property owners, with their mailing address, within 500 feet of the boundaries of the proposed Site. The applicant may delay submitting this list until the Town Planning Board calls for a public hearing on the application.
4. Parcel Information. Address, or other property identification, of each proposed tower location, including tax map section, block and lot number.
5. Project Description. A description of the project, including the number and maximum rated capacity of each WTG.
6. Plot Plans. A set of plot plans containing sufficient detail to clearly describe the following:
 - (a) Property lines and physical dimensions of the Site;
 - (b) Locations of all proposed facilities, including WTG, access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - (c) Locations of Residences and other existing structures on the Site and within five hundred (500) feet of the Site boundaries.
 - (d) Locations of parcels adjoining the Site.
 - (e) Locations of public roads on the Site.
 - (f) Locations of all utility lines on the Site.
 - (g) Locations of all accessory buildings.
 - (h) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed WTG location equal to:
 - (i) One times the tower height.

- (ii) Five hundred foot perimeter.
- (iii) One thousand foot perimeter.
- (iv) Mapping of the nearest structures not on the applicant's property.

7. Wind Turbine Information. One drawing or other set of information may be submitted for each WTG of the same type and Total Height. For each type of WTG proposed, the application shall include:

- (a) A vertical drawing of the WTG showing Total Height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, location of climbing pegs, and access doors.
- (b) Make, model, picture and manufacturer's specifications, including information on noise levels during WTG operation.
- (c) Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.

8. Landscaping Plan. A plan depicting existing vegetation and describing any areas to be cleared.

9. Lighting Plan. A plan showing any FAA-required lighting and other proposed lighting.

10. Decommissioning Plan. The applicant shall submit a decommissioning plan, which shall include: (i) the anticipated life of the WTG; (ii) the estimated decommissioning costs in current dollars; (iii) how said estimate was determined; (iv) the method of ensuring that funds will be available for decommissioning and restoration; (v) the method that the decommissioning cost will be kept current; and (vi) the manner in which the WTG will be decommissioned and the Site restored.

11. Complaint Resolution Plan. The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

12. Construction Information. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:

- (a) A construction schedule describing commencement and completion dates; and
- (b) A description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.

13. EAF. Completed Part 1 of the Full EAF as required by SEQRA.

14. Signed Statement. A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.

B. Positive Declaration. If the applicant agrees in writing in the application that the proposed WTG may have a significant adverse impact on the environment, the Town Planning Board may issue a positive declaration of environmental significance.

C. Environmental Studies. If a positive declaration of environmental significance is determined by the

SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted to the Town Planning Board for its use in reviewing the application:

1. Visual Impact Assessment. A visual impact assessment (VIA) of the proposed WTG as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. The VIA shall include: (i) color photographs of the proposed Site from at least two locations accurately depicting the existing and proposed conditions, and (ii) a map showing locations where proposed WTG could be visible.
2. Noise Study. A noise analysis documenting the noise levels associated with the proposed WTG.
3. Shadow Study. A study on potential shadows from the WTG. The study shall identify Off Site Residences where shadows could be caused by the WTG and the expected durations of the shadows at these Off Site Residences in the Town of Dansville.
4. Communications Impacts. An assessment of potential interference of the proposed WTG with microwave, radio, television, personal communication systems and other wireless communication.
5. Fire Protection Plan. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Site.

§11 Application Review Process

- A. Pre-Application Meeting. Applicants may request a pre-application meeting with the Town Planning Board or with any consultants retained by the Town Planning Board for application review. Meetings with the Town Planning Board shall be conducted in accordance with the Open Meetings Law.
- B. Escrow Agreement. The Town may require the applicant to fund an escrow agreement to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant.
- C. Application Submittal. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.
- D. Application Completeness Review. Town staff or Town designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this Article is included in the application.
 1. Unless the Town Planning Board waives any application requirement, no application shall be considered until deemed complete.
 2. If the application is deemed incomplete, the Town Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WTG proposed is increased.

F. Board Receipt of Applications. Upon submission of a complete application, including the grant of any application waiver by the Town Planning Board, the Town Clerk shall transmit the application to the Town Planning Board.

F. Public Hearing. The Town Planning Board shall hold at least one public hearing on the application.

1. Notice of the public hearing shall be given by first class mail to property owners within 500 feet of the boundaries of the proposed WTG by the applicant, and a notice of public hearing shall be posted and published in the Town's official newspaper no less than ten nor more than twenty days before any hearing. Where any hearing is adjourned by the Town Planning Board to hear additional comments there shall be further posting of notice and news release of such adjournment. The applicant shall prepare and submit to the Town such notices and mail the Notice of Public Hearing as approved by the Town, and shall submit a combined affidavit of service listing each mailing. An affidavit of publication is to be provided by the official newspaper for the Town. The assessment roll of the Town shall be used to determine mailing addresses.

2. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers.

G. County Planning Board Notice. Notice of the project shall also be given, when applicable, to the Steuben County Planning Board, if required by General Municipal Law §§239-l and 239-m.

H. SEQRA Review. WTG applications shall be deemed Type I projects under SEQRA. The Town may conduct the SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Town's proceedings.

I. SEQRA Findings. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement is prepared, there shall be issued a Statement of Findings, which Statement may also serve as the Town's decision on the applications if adopted as so by the Town.

J. Application Decision. Upon receipt of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Planning Board may approve, approve with conditions, or disapprove the applications, in accordance with the standards in this Article.

The Town Planning Board shall approve, conditionally approve, or disapprove such application within sixty-two (62) days of the meeting at which it is considered. Grounds for conditional approval or disapproval must be in writing. In the event that the Planning Board does not take any action on the application within such sixty-two (62) day period, the application shall be deemed to be approved. In the event the Planning Board retains engineering or other technical or review services, the expense thereof which shall be paid by the applicant, the sixty-two (62) period shall begin on the date the Planning Board receives such engineering or other technical review services report in final form. If the application is disapproved, the applicant shall have, if he/she desires, the opportunity to make revisions, and resubmit the application following the procedure set forth above. In the alternative, the applicant may submit the application to the Dansville Town Board at a regular meeting thereof, providing such submission is made within ninety (90) days after Planning Board disapproval.

In the event that the applicant follows the above procedure and submits the application, following disapproval by the Town Planning Board, to the Town board, the Town Board shall approve, conditionally approve, or disapprove such application within sixty-two (62) days of the meeting at which it is considered. Grounds for conditional approval or disapproval must be in writing. In the event that the Town Board does not take any action on the application within such sixty-two (62) day period, the application shall be

deemed to be approved. In the event the Town Board retains engineering or other technical or review services, the expense thereof which shall be paid by the applicant, the sixty-two (62) period shall begin on the date the Town Board receives such engineering or other technical review services report in final form. If the application is disapproved by the Town Board, the applicant shall have whatever rights are afforded under New York State law for further review.

§12 Standards for Wind Energy Facilities

The following standards shall apply to all Wind Energy Facilities, unless specifically waived by the Town Planning Board as part of a Wind Energy Permit.

A. Transmission Lines. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.

B. WTG Height. The maximum Total Height of any WTG shall be 600 feet.

C. Antennae Co-Location. No television, radio or other communication antennas may be affixed or otherwise made part of any WTG, except pursuant to the Town Code. Applications may be jointly submitted for WTG and telecommunications facilities.

D. Advertising. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

E. WTG Lighting. No WTG shall be lit except to comply with FAA requirements.

F. Visual Impact Mitigation. Applicants shall use measures to reduce the visual impact of WTG to the extent possible.

1. WTG shall use tubular towers.
2. WTG shall be finished in a single, non-reflective matte finished color.
3. WTG within a multiple WTG project shall be constructed using WTG whose appearance, with respect to one another, is similar within and throughout the project, to provide reasonable uniformity in overall size, geometry, and rotational speeds.

G. Guy Wires. The use of guy wires for WTG is disfavored. A WTG using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.

H. Microwave Links. No WTG shall be installed in any location along the major axis of an existing microwave or other communications link where its operation is likely to interfere in the link's operation. If it is determined that a WTG is interfering with a microwave or other communications path, the WTG operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy interference with existing microwave or other communications links is grounds for revocation of the Wind Energy Permit for the specific WTG causing the interference.

I. Waste Removal. Solid waste, hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.

J. Clearing. Wind Energy Facilities shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.

K. Wildlife. WTG shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.

L. Wetlands. Wind Energy Facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.

M. Stormwater. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.

N. Construction Times. Construction of the Wind Energy Facilities shall be limited to the hours of 7 a.m. to 7 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town. Where certain activities (such as cement pours or component deliveries) or other conditions such as high wind speeds during the day) may, from time to time require deviation from these hours, but which activities would be limited to the turbine sites, and the immediate area during any such period of deviation.

§13 Required Safety Measures

A. Controls. Each WTG shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

B. Minimum Blade Height. The minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet.

C. Signs. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. The Town Planning Board may require additional signs based on safety needs.

D. Climbing Pegs. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers.

E. Access Control. WTG shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

§14 Roads and Traffic

Dansville Road Preservation Law Town of Dansville Road Preservation Law. Notwithstanding anything to the contrary contained therein, the applicant must comply fully with Local Law No. 1 of the year 2012 of the Town of Dansville Road Preservation Law. For This Wind Energy Facility Law, the definition of High Frequency Truck Traffic as found in Section 4 of Local Law No. 1 of the year 2012 of the Town of is hereby negated and replaced with a vehicle or related vehicles that have 3 or more axles which traverse/travels any miles of Town roads or other town property during any 5 consecutive days. This definition shall be used for both individual permits and blanket permits.

A. Traffic Routes. Construction and delivery vehicles for WTG and Wind Energy Facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (i) minimizing traffic impacts from construction and delivery vehicles; (ii) minimizing WTG related traffic during times of school bus activity; (iii) minimizing wear and tear on local roads; and (iv) minimizing

impacts on local business operations. Wind Energy Permit conditions may limit WTG related traffic to specified routes, and include a plan for disseminating traffic route information to the public.

B. Road Remediation. The applicant shall be responsible for remediation of damaged roads upon or if necessary during the construction of or completion of the installation of WTG. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Planning Board, sufficient to compensate the Town for any damage to local roads that is not corrected by the applicant.

§15 Sound Levels and WTG Setbacks

A. Sound Levels. The statistical sound pressure level generated by a WTG shall not exceed L_{eq} 45 dBA measured at the nearest residence located off the Site. Sites can include more than one piece of property and the requirement shall apply to the combined properties. If the ambient sound pressure level exceeds 45 dBA, the standard shall be ambient dBA plus 6 dBA.

B. Setbacks. Each WTG shall be located with the following minimum setbacks, as measured from the center of the WTG:

1. 1,500 feet from off-Site Residences, measured from the exterior of such Residence.
2. 1.5 times the WTG Total Height from the nearest Site boundary property line.
3. 1.5 times the WTG Total Height from the right of way of all public roads.
4. 1.5 times the WTG Total Height from off-site existing structures.
5. 1.1 times the WTG Total Height from above-ground utilities, unless waived by the utility companies.
6. 100 feet from state-identified wetlands as measured from the turbine center point.

§16 Noise and Setback Easements

A. In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria established in this Local Law as it existed at the time the Wind Energy Permit is granted, a waiver will be granted from such requirement by the Town Planning Board in the following circumstances:

1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to (i) allow noise levels to exceed the maximum limits otherwise allowed or (ii) setbacks less than required; and
2. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Town Planning Board, which consent shall be granted upon either the completion of the decommissioning of the benefited WTG in accordance with this Article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WTG.

C. Waivers granted under this Section differ from waiver requests under Article IV of this Local Law in that no Article IV waiver is required if a waiver is given under this Section, and a Article IV waiver must be sought rather than a waiver under this Section if the adjoining property owner will not grant an easement pursuant to this Section.

§17 Issuance of Wind Energy Permits

A. Upon completion of the review process, the Town Planning Board shall, upon consideration of the standards in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.

B. If approved, the Town Planning Board will direct the Town Clerk to issue a Wind Energy Permit upon satisfaction of all conditions for said Permit, and direct the building inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other pre-construction conditions of this Local Law.

C. The decision of the Town Planning Board shall be filed within five (5) days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

§18 Limitations on Approvals; Easements on Town Property

A. Wind Flow. Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Local Law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

B. Easements on Town Property. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Planning Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

§19 Permit Revocation; Abatement

A. Operation. A WTG shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions.

B. Violations of Permit Conditions. Should a WTG violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Planning Board. The applicant shall have 90 days after written notice from the Town Planning Board to cure any deficiency, and the Town Planning Board may grant extensions of the 90 day cure period.

C. Public Hearing and Remedial Action. Notwithstanding any other abatement provision under this Local Law, if the WTG is not brought into permit compliance after said notice, the Town Planning Board may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (i) order either remedial action within a particular timeframe, or (ii) order revocation of the Wind Energy Permit for the WTG and require the removal of the WTG within 90 days. If the WTG is not removed, the Town Planning Board shall have the right to use the security posted as part of the Decommission Fund to remove the WTG.

D. Inoperative WTG. If any WTG remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Town Planning Board, the applicant shall remove said WTG.

1. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WTG to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.

2. WTG non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. Upon request of the Town Planning Board, the applicant shall make available (subject to a non-disclosure agreement) to the Town Planning Board all reports to and from the purchaser of energy from individual WTG necessary to prove the WTG is functioning, which reports may be redacted as necessary to protect proprietary information.

E. WTG Removal and Remediation. WTG removal shall include removal of all aboveground equipment, removal of foundations to a depth of four (4.0) feet below grade, restoration of soil conditions, and restoration of vegetation to be consistent and compatible with surrounding vegetation.

F. Decommissioning Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of inoperative WTGs, in an amount to be determined by the Town, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant. All decommissioning fund requirements shall be fully funded before a building permit is issued.

Article III

Wind Measurement Towers

§20 Wind Site Assessment

The Town Planning Board acknowledges that prior to construction of a WTG, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also known as meteorological ("Met") towers, shall be permitted on the issuance of a Wind Energy Permit in accordance with this Article.

§21 Applications for Wind Measurement Towers

A. Applications. An application for a Wind Measurement Tower shall include

1. Applicant Information. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Property Owner Information and Authorization. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Site Information. Address of each proposed tower location, including tax map section, block and lot number.

4. Map. A map showing proposed location of the Wind Measurement Tower and any roads, parcel boundaries or structures within one times the height of the wind measurement tower.

§22 Standards for Wind Measurement Towers

A. Setback. The distance between a Wind Measurement Tower and the property line shall be at least 1.5 times the height of the wind measurement tower. Sites for a Wind Measurement Tower can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

B. Permit Duration. Wind Energy Permits for Wind Measurement Towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Planning Board.

Article III Small WTG

§23 Purpose and Intent

The purpose of this Article is to provide standards for small WTG designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare

§24 Applications

A. Applications for Small WTG Wind Energy permits shall include:

- 1. Applicant Information.** Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
- 2. Property Owner Information and Authorization.** Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
- 3. Site Information.** Address of each proposed tower location, including tax map section, block and lot number.
- 4. Height Information.** Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
- 5. Electrical Drawing.** A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
- 6. Electric Use.** Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
- 7. Utility Notice.** Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.

8. Visual Analysis. A visual analysis of the Small WTG as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

§25 Development Standards

All Small WTG shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

A. Lot Size. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.

B. Number. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Article.

C. Use. Small Wind energy systems shall be used primarily to reduce the on-site consumption of electricity.

D. Height. Tower heights may be allowed as follows:

(a) 65 feet or less on parcels between one and five acres.

(b) 80 feet or less on parcels of five or more acres.

(c) The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

E. Output. The maximum turbine power output is limited to 10 KW.

F. Color. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

G. Visual Impact. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.

H. Lighting. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

I. Electric Lines. All on-site electrical wires associated with the system shall be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

J. Electromagnetic Interference. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

K. Signs. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or

advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

L. Access Control. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

- (a) Tower-climbing apparatus located no closer than 12 feet from the ground.
- (b) A locked anti-climb device installed on the tower.
- (c) A locked, protective fence at least six feet in height that encloses the tower.

M. Anchors. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

N. Access Roads. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

O. Code Compliance. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.

P. Controls. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacture.

§26 Standards

A Small Wind Energy System shall comply with the following standards:

A. Setbacks. A Small WTG shall not be located closer to a property line than 1.5 times the Total Height of the Small WTG and 1.5 times to the nearest off site permanent structure.

B. Noise. Except during short-term events including utility outages and severe wind storms, a Small WTG shall be designed, installed, and operated so that noise generated by the system shall not exceed 45 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

§27 Abatement

A. Operation. All Small WTG shall be maintained in good condition and in accordance with all requirements of this section.

B. Removal. Small WTG which is not used for a continuous period of one (1) year shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit.

Article IV Waivers

§28 Waivers

A. The Town Planning Board may, after a public hearing (which may be combined with other public hearings on Wind Energy Facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this Local Law if, in the opinion of the Town Planning Board, the grant of said waiver is in the best interests of the Town. The Town Planning Board may consider as reasonable factors in evaluating the request, which may include, when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties, the benefit to the applicant, feasible alternatives, and the scope of the request.

B. The Town Planning Board may attach such conditions as it deems appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.

A r t i c l e V Miscellaneous

§29 Fees

A. Wind Energy Permits. Non-refundable application fees shall be as follows:

1. WTG Wind Energy Permit: \$50 per megawatt of rated maximum capacity
2. Wind Measurement Towers Wind Energy Permit: \$200 per tower
3. Small WTG Wind Energy Permit: \$150 per WTG
4. Wind Measurement Tower Wind Energy Permit renewals: \$50 per tower.

B. Building Permits. The Town believes the review of building and electrical permits for Wind Energy Facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be \$25 per permit request for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.

C. Host Community Agreements. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the town for expenses or impacts on the community.

§30 Enforcement; Penalties and Remedies for Violations

A. Staff. The Town Planning Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.

B. Penalties. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this Local Law or in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the enforcement officer, and any person who shall knowingly assist in so doing, shall be guilty of an offense and subject to a fine of not more than **\$500** per week per violation up to four weeks, and then if continuing, up to **\$1000** per week per violation. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. In addition to fines, the Town may institute a civil proceeding to collect civil penalties in the amount of **\$500** for each violation and each week said violation continues shall be deemed a separate violation.

C. Other Remedies. In case of any violation or threatened violation of any of the provisions of this Local Law, including the terms and conditions imposed by any permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

SECTION 2: Severability

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 3: Effective Date

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2017 of the Town of Dansville was duly passed by the Town Board on _____, 2017, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. 1 of 201 of the Town of _____ was duly passed by the _____ (Name of Legislative body) on _____ 201, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 2010, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 201 of the Town of _____ was duly passed by the _____ (Name of Legislative body) on _____ 2010, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 201. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 2010, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 of the Town of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of Livingston, State of New York, having been submitted to the electors at the General Election of _____ 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: _____, 2017

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

Town of Dansville

Local Law No. 3 of the year 2016.

A local law to amend Local Law No. 1 of the year 2005 to require building lots of at least two (2) acres

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

1. Section 100 of Article 10 of Local Law No. 1 of the year 2005, entitled "a Local Law for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform code)" is hereby repealed and replaced with the following section:

- Section 100:
- (a) No building shall be constructed on a building site smaller than two (2) acres, and no land shall be subdivided to result in a building being located on a site smaller than two acres;
 - (b) No building shall be constructed on a lot with less than 200 feet of road frontage. In the case of a corner lot, there shall be no less than 200 feet of road frontage on one road.
 - (c) Any building shall be set back at least 70 feet from the centerline of any adjoining road. In the case of a corner lot, the 70 feet set back shall be from the centerline of both adjoining roads.
 - (d) Any building shall be at least 20 feet from any side or rear property line.
 - (e) This local law shall not apply to pre-existing, non-conforming lots that otherwise meet all other Town and State requirements and set back requirements, providing that any buildings to be constructed are not dwellings.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(f) For the purpose of this local law, the term “building” and the term “dwelling” is as defined in Local Law No. 1 of 2005 of the Town of Dansville.

2. Local law no. 1 of the year 2009 is hereby repealed in it entirety.
3. This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2016 of the Town of Dansville was duly passed by the Dansville Town Board on September 8, 2016, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

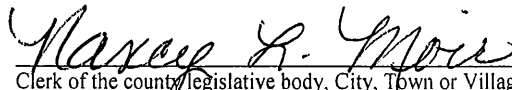
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one (1), above.



Clerk of the county/legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: September 8, 2016

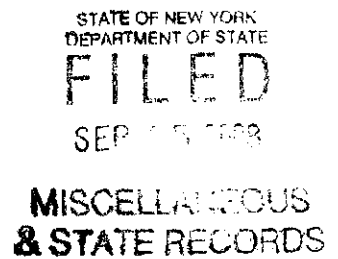
Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

Town of Dansville

Local Law No. 2 of the year 2008



A local law to deny a tax exemption under section 487 of the Real Property Tax Law to solar, wind energy, and farm waste energy systems.

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

Section 1. This local law is enacted pursuant to subdivision 8 of section 487 of the New York State Real Property Tax Law.

Section 2. No exemption under section 487 of the New York State Real Property Tax Law shall be applicable within the Town of Dansville with respect to any solar or wind energy system or farm waste energy system constructed subsequent to the effective date of this local law.

Section 3. A copy of this local law shall be filed with the State Board of Equalization and Assessment and the president of the New York State Energy Research and Development Authority.

Section 4. This local law shall take effect immediately upon filing with the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2008 of the Town of Dansville was duly passed by the Dansville Town Board (Name of Legislative body) on September 11, 2008, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) ON 20 , and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) and was deemed duly adopted on 20 , in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) ON 20 , and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20 . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20 , in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) ON 20 , and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20 , in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 __, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November __, 20 __, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Nancy R. Moir
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: September 11, 2008

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

State of New York
County of Steuben

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

John V. [Signature]
Signature
Title Attorney for the Town of Dansville

Town of Dansville

Date: September 11, 2008

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

Town of Dansville

Local Law No. 1 of the year 2012

**FILED
STATE RECORDS**

JUN 26 2012

DEPARTMENT OF STATE

A local law entitled “Town of Dansville Road Preservation Law”

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

Section 1. Title.

This local law may be cited as the “Town of Dansville Road Preservation Law”.

Section 2. Authority for this Local Law.

The Town Board of the Town of Dansville enacts this local law under the authority granted by Section 10 of the New York State Municipal Home Rule Law, New York State Constitution Article IX § 2(c)6, Town Law, subsection 1(ii)(a)(6), subdivision 2 of section 23-0303 of the Environmental Conservation Law, Highway Law Section 140, Highway Law section 320, Town Law section 130, and Vehicle and Traffic law section 1660.

Section 3. Purpose.

The purpose of this local law is to maintain the safety and general welfare of Town residents and other using Town highways by regulating high impact commercial activities that have the potential to adversely impact roads and property. The intent is to protect the Town roads and property from damage from endeavors that typically require high frequency use of heavy equipment with heavy loads. It is the intent of this law to insure that the Town’s roads are not damaged or harmed to the overall detriment of the Town by a few individual users who utilize the roads in a manner that causes extraordinary deterioration to the roads.

Nothing contained in this Chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

Nothing contained in this Chapter shall be deemed to unlawfully interfere with Interstate Commerce.

Section 4. Definitions.

The following terms shall have the following meaning in this Chapter.

Blanket Permit: A permit that covers more than one vehicle or truck; which would be subject to the permitting process. Vehicles or trucks that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location shall be considered related vehicles and should be subject of a blanket permit.

Bond: A commercial bond to ensure that the condition of the town roads and/or property impacted by Highway Frequency Truck Traffic is left in a good or better condition at the completion of the project as they were at the start of the project.

Code Enforcement Officer: The building and code inspector of the Town, Town code enforcement officer, or such other Town official who exercises similar building, code and enforcement powers.

Escrow: Money put into the custody of a third party for delivery to a grantee only after the fulfillment of the conditions specified.

High Frequency Truck Traffic: A vehicle or related vehicles that have 3 or more axles which traverses/travels over 100 miles or more of Town roads or other town property during any 5 consecutive days. When calculating whether a vehicle or related vehicles meets the definition of High Frequency Traffic, 100 miles and 5 consecutive days shall be used for both individual permits and Blank Permits.

Highway Superintendent: The Highway Superintendent of the Town.

Local Delivery: Delivery or pickup of merchandise or other property along the Town Roads by High Frequency Truck Traffic.

Other Town Property: Any real property (including any improvements therein, thereon or thereunder) or personal property owned by, or leased to, the Town.

Motor vehicles: Every vehicle operated or driven upon a public highway which is propelled by any power other than human or animal power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (b) vehicles which run only upon rails or tracks, (c) snowmobiles, (d) all-terrain vehicles, (e) fire, police vehicles, ambulances, EMT

vehicles, and other similar emergency vehicles, (f) farm type tractors, all-terrain type vehicles used exclusively for agricultural purposes or for snow plowing (other than for hire), farm equipment, including self-propelled machines and trucks used exclusively in growing, harvesting, handling or transporting farm produce, and (g) self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

Permit: Approval of an application for a Road Preservation Permit Application. This includes Blanket permits, which are preferred, where there are multiple related vehicles.

Permitee: Shall mean the holder of a "Road Preservation Vehicle Permit" issued pursuant to this Local Law. Under a Blanket Permit, this shall include the holder's contractors, sub contractors, employees and agents.

Related Vehicles: More than one vehicle; including those that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location. When calculating if related vehicles meet the definition of High Frequency Truck Traffic, the number of axles shall be counted in each vehicle separately; however, the number of miles shall be the combination of all vehicles with 3 or more axles.

Road Preservation Local Law Worksheet (*Appendix A*): Worksheet to be completed by potential Permitee, summarizing the project, project location, start and completion dates, expected maximum gross vehicle weight used for the project, proposed truck routes, and any other items that the Board Town deems necessary.

Town: Town of Dansville, a municipality located in the County of Steuben, State of New York.

Town Board: The Town Board of the Town of Dansville.

Town Clerk: The duly elected Town Clerk of the Town of Dansville.

Town Road: Any Town highway, road, street, avenue, boulevard, parkway, shoulder guard rail, concourse, driveway, easement, right of way, bridge, culvert, sluice pipe, ditch, dock, tunnel, sidewalk, or any utilities or improvements therein, thereon or thereunder.

Truck: Every motor vehicle designed, used, or maintained primarily for the transportation of property.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

Section 5. Permanent Weight Restriction and Truck Route.

A. All trucks, tractors commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, tractor trailer-semitrailer combinations, or motor vehicles that are considered High Frequency Truck Traffic are excluded from all Town Roads in the Town of Dansville, except that High Frequency Truck Traffic operated in the Town of Dansville shall be restricted (except as expressly hereinafter permitted) to the following designated "truck route system":

1. The designated "Town of Dansville Truck Route" shall be limited to consist of routes on, over and along any and all State and County owned/maintained roadways lying within the boundaries of the Town of Dansville. No High Frequency Truck Traffic shall use Town Highways or roadways, except as hereinafter permitted.

B. The initial determination that the standards of High Frequency Truck Traffic have been met shall be made by the Town Board. However, if during the application process a Permittee alleges that they do not meet the threshold of High Frequency Truck Traffic, they may present such evidence to the Town Board for a review and determination.

C. There shall be signs installed at all major highways entering Town, indicating that High Frequency Truck Traffic must use the truck route system or local delivery by permit.

Section 6. Requirement that a Vehicle Permit be Obtained by High Frequency Truck Traffic.

Local Delivery by High Frequency Truck Traffic is allowed but only after compliance with this local law and after obtaining a Permit, Blanket Permit, or after entering into a road use agreement (as provided for herein).

When there is High Frequency Truck Traffic that involves more than one vehicle; including those that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location; the Permittee must apply for a blanket permit or (as permitted elsewhere) a road use agreement. Individual permits will not be allowed in such circumstances.

The Permittee for a blanket permit or road use agreement shall be an individual or entity that controls or directs the specific project, site or work location and that application must include all vehicles owned, used, rented, leased, hired (including independent contractors) or in any way utilized.

Section 7. Permit Issuing Authority and Enforcement Authority.

A. The Town Board is hereby authorized to promulgate an application form requesting a Permit and the Permit to be issued upon review and approval of said application.

B. The Town Clerk is hereby designated as the authority to receive applications for permits to operate or move a vehicle or a combination of vehicles, the weights and frequency of which exceed the limitations provided herein. The Town Clerk must submit a copy of the applications and any approved permit to the Town Code Enforcement Officer and the Highway Superintendent.

C. The Town Board is hereby designed as the authority to approve applications for a Permit to operate, transport, or move High Frequency Truck Traffic, as defined above, on, over or across a designated Town Road or other Town property.

D. This chapter shall be administered and jointly enforced by the Town enforcement officers and the police agencies of Steuben County and NYS or officials authorized by the Town Board of the Town of Dansville. Violations may be reported by verbal or written complaint by at least one person, including the enforcement officer.

1) Town enforcement officers and the police agencies of Steuben County and NYS and any other officials authorized by the Town Board of the Town of Dansville are authorized to enforce any violation of the Chapter.

Section 8. Application and Permit Form.

At time of initial application and continuing thereafter, the person requesting the permit shall provide the following:

- 1) a proposed road map that the High Frequency Truck Traffic will travel on,
- 2) a video or photographic documentation demonstrating the condition of the proposed road and/or described in the permit,
- 3) Copies of valid New York State Vehicle Registrations for each vehicle and copies of valid New York State Special Hauling Permits, if any, for each vehicle,
- 4) The name of a responsible individual person who would be subject to prosecution and civil penalties pursuant to Section 18. The responsible must sign or join in signing the permit application and his/her signature must be acknowledged by a notary public. If the applicant is a corporation, limited liability company, partnership, or other entity, the responsible party must be an officer (or director), member (or manger), general partner, or principal of the entity, as the case may be, signing in his/her personal and individual, not representative, capacity.
- 5) Proof of Insurance as required herein,
- 6) Permit fee of \$25.00 per permit and \$100.00 per blanket permit, per year or portion thereof.

7) Any other documents, maps, sketches, and plans, which the Town Board may require and

8) All other requirements of this Chapter, including an escrow account, bond, etc., must be satisfied prior to approval of any permit application.

Information shall be provided with the application on each individual vehicle owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location.

Whenever possible, the permittee must request a blanket Permit covering all of the vehicles, which such permittee plans to use on town roads or highways. If such a blanket Permit is thereafter issued all of the vehicles specifically listed on such Permit shall be deemed to be covered by such Permit.

Additionally, after issuance of the Permit, the Applicant must provide updated information including but not limited to changes in: truck routes, project, site or work location, etc. if in the opinion of the Town Board, the changes are significant, then the Permittee must file a new Permit application; including new relevant fees, bonds, escrows, insurances, etc.

Every permit or blank permit shall be carried on the vehicle to which it refers and shall be open to inspection of any authorized enforcement officer, peace officer or police agencies of Steuben County or other officials authorized by the Town Board.

After issuance of the Permit, the Permittee will arrange for video or photographic documentation of condition of roads, shoulders, and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic on monthly basis and within two weeks after the conclusion of the permitted work. All video or photographic documentation will be submitted to the Town Board within one week of recording. Failure to submit the required video or photographic documentation will result in immediate revocation of the Work Permit.

Section 9. Alternative to Permit: Road Use Agreement.

A Permittee, whom has more than one vehicle, which qualifies as High Frequency Truck Traffic, may request that the Town enter into a town-wide road maintenance agreement in lieu of separate permits for each vehicle(s) or even a blanket permit. Said road maintenance agreement shall conform to the minimum requirements of this local law, would be executed by the Town and the Permittee and shall include such additional terms as are reasonably required by the Town, including but not limited to insurance, maintenance bond, truck traffic routes, traffic schedules, inspections and road surveys. All of the vehicles specifically listed in such agreement, including those owned by the holder, its agents and sub contractors, shall be deemed to be covered by such agreement, and upon execution of the agreement the Commissioner shall issue a blanket permit.

Section 10. Damage to Town Roads.

With the exception of normal wear and tear, the Permittee is responsible for all damages, injuries discharges or spills that occur on or to the Town Roads, other Town property, ditches, curbs, sidewalks or other improvements and to public utilities of the Town in the roadway.

It is the Permittee's responsibility to obtain the permission of any railroad companies operating within the Town to schedule traffic across any railroad crossings located on Town Roads as to avoid or minimize delays to rail traffic, and to maintain and repair said railroad crossings, as necessary.

Upon due notice being given to the Permittee and at the Town's option, the Town may allow the Permittee to repair all damages or the Town may arrange the necessary repairs and charge the Permittee for all labor and materials at the prevailing rates. The highway shall be restored and the integrity of the repair maintained for a period of one year from the date of any repairs. Particular attention is called to the necessity of thoroughly compacting the back fill, which will be required by the Town. If the Town requests the Permittee to repair the damages, such repair will be promptly done to the specifications, time line and any and all other requirements of the Town.

Section 11. Insurance

A. The Permittee shall present to the Town certificates of insurance evidencing the acquisition of liability insurance coverage naming the Town as an additional insured on a non-contributory basis with the minimum limits of coverage for bodily injury equal to \$1,000,000.00 for each person injured, \$2,000,000.00 for aggregate bodily injury resulting from each occurrence, and \$500,000.00 property damage.

B. Said insurance shall be maintained throughout the term of the permit, at the cost and expense of the Permittee, and the aforementioned certificates shall provide for thirty (30) days' notice to the Town prior to cancellation of coverage.

C. All persons performing work under this permit and whom are required to be covered by Workmen's Compensation Insurance and Disability Benefits insurance under New York law; shall be covered at the cost and expense of the Permittee.

Section 12. Maintenance Bond and Letter of Credit.

The Permittee shall present to the Town a maintenance bond in a dollar amount per mile as determined by the Town's Highway Superintendent sufficient to cover the actual cost of repair, reconstruction, and/or any other reasonable and necessary action. In determining the dollar amount per mile, the Highway Superintendent shall take into account the type of road (such as gravel, oil and stone, or paved), the width, the existence of culverts, drainage pipes,

bridges, or other features, and such other factors as he maintains are appropriate. The Permittee shall also present to the Town a bank letter of credit in the amount of \$10,000.00 in favor of the Town guaranteeing compliance with the provisions of the permit. The Permittee shall immediately notify the Town of any change, threatened cancellation, actual cancellation, or expending of the maintenance bond or the letter of credit. Prior to the said letter of credit and/or maintenance bond being changed, cancelled or expended, the Permittee shall renew, extend, or replace the same on the same terms and conditions as originally and immediately provide proof thereof to the Town, and upon the Permittee's failure to do so, the Town, at its option may revoke the permit.

By accepting the maintenance bond and letter of credit, the Town in no way gives up its rights to proceed directly against the Permittee for any damages that the Town incurs.

Such Maintenance Bond shall be maintained for a least a period of one year after repairs have been approved by the Town. The highway shall be restored and the integrity of the repair maintained for a period of one year from the date of any repairs.

Section 13. Indemnity and Save Harmless.

The Permittee will be required to agree to fully indemnify, defend, save and hold harmless the Town of Dansville and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with, or resulting from any type and all activity to be performed by Permittee pursuant to this permit.

By accepting the Permit, the Permittee shall be deemed to have agreed to all of the defense, indemnity and save harmless provisions of this Local Law and all other provisions of this Local Law.

Section 14. Extent of Permittee's Liability and Obligations Hereunder.

The Permittee's obligations hereunder to repair and restore, the Permittee's obligations hereunder to defend, indemnify and hold harmless, and the Permittee's other liability and obligations hereunder shall not be limited by the limits of any applicable insurance coverage, highway permit bond, maintenance bond, letter of credit, comparable bond, escrow account, cash deposit, or rights of the Town under any New York State or Federal law, rule, regulation or statute, including subdivision 3 of section 23-0303 of the Environmental Conservation law of the State of New York. The Permittee's obligations hereunder to repair and restore, the Permittee's obligation hereunder to defend, indemnify, and hold harmless, and the Permittee's other liability and obligations hereunder shall survive any termination or revocation of the Permit.

Section 15. Stop Work Orders.

The Highway Superintendent shall have the right and authority to issue stop work orders to those operating in violation of the terms of this permit, or contrary to the Permittee's application or conditions upon which its permit was issued or in violation of this Local Law, in violation of applicable provisions of law.

Section 16. Revocation of Permit.

Upon the violation of any provisions of this permit, or violation of any provisions of this Local Law, or violation of applicable provisions of law, or violations of any conditions, the Town Board may suspend any such permit issued hereunder for no more than thirty (30) days, and following a public hearing at which the Permittee shall have the right to appear and be heard, the Town Board may permanently revoke any permit on written notice to the Permittee.

Section 17. Special Conditions and Exclusions.

A. The permit shall not be assigned or transferred without the written consent of the Town Board. A change of ownership or business identity shall also require Board approval.

B. The Town Clerk shall be given three business days written notice by said Permittee of the date when it intends to begin the activity authorized by the permit, and prompt notice of its completion.

C. The permit shall remain valid only for so long as the Permittee continues to hold a valid New York State hauling Permit or Divisible Load Permit, where necessary.

D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing an R-Posted bridge or culvert.

E. Due to the vital nature of the following vehicles in providing public services deemed necessary in preventing emergencies or in safeguarding the public health, safety and welfare, and since overweight vehicles may be required to perform these services, the following vehicles are granted exemptions from the permitting process of this local law:

(1) Maintenance, repair and service vehicles owned and operated by municipalities or fire companies on official municipal or fire fighting business.

(2) Maintenance, repair and service vehicles owned and operated by a utility company or authority and on official utility business.

F. Valid insurance, maintenance bonds and letters of credit shall be maintained as required by herein.

G. Traffic will be maintained in accordance with the Uniform Traffic Control Manual.

H. If any of these conditions are not met, the permit is automatically voided and all work shall cease.

Section 18. Violation of Local Law; Penalties Therefore.

A. Any person who violates any provision of this chapter shall be deemed guilty of a Misdemeanor and, upon conviction thereof, shall be subject to penalties in a fine of not less than \$1,000.00 and imprisonment up to one year.

B. In addition to those penalties prescribed herein, any person who violates any provision of this chapter shall be liable for a civil penalty in an amount not to exceed \$5,000.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town.

C. If the violation is of a continuing nature, each twenty-four hour period during which it occurs shall constitute an additional, separate and distinct offense.

D. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce any provision of this chapter. In particular, but not by way of limitation, where there is a violation of this chapter, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing abatement of the condition in violation of such provisions. The Town may seek restitution for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this chapter. Any remedy specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section.

F. This section shall apply not only to the responsible person who signed the application for the permit but also all vehicle drivers, corporate officers or directors, limited liability members or managers, partners, and all other employees and other persons who are in violation, as well as the business entity itself.

Section 19. Reservation of Town's rights.

The Town hereby retains all rights it has now or may have hereafter, pursuant to the provisions of subdivision 3 of section 23-0303 of the Environmental Conservation Law, to request funds (by filing a request therefore with the New York State Commissioner of Environmental Conservation) from the oil and gas fund to reimburse or compensate the Town for costs related to repairing damages to any Town Road, or other Town property.

The Town hereby retains and reserves all rights it has now or may have hereafter, pursuant to Navigation Law Article 12 to make a claim against the New York Environmental Protection and Spill Compensation Fund to reimburse or compensate the Town for cost related to repairing damages to any Town Road or other Town property.

The Town hereby retains and reserves all other rights it has now or may hereafter, to seek reimbursement or compensation for costs related to repairing damages to any Town Road or other Town property.

Section 20. Escrow.

The Board may hire any consultant and/or expert necessary to assist the Town Board in reviewing and evaluating the application.

1. The Town requires an applicant to deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town Board in connection with the review of any application. The initial deposit shall be the sum of \$5,000.00. However, the Town Board may, in its discretion reduce said fee upon good cause shown. These funds shall accompany the filing of an application and the Town shall maintain a separate escrow account for all such funds. The Town's consultants/experts shall, in accordance with an agreement between the Town and its consultants or experts, bill or invoice the Town not less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance that shall not reasonably cover the cost of the remaining work of the Town's consultants/experts, the Town will require applicant to immediately replenish said escrow account in an amount set by the Town, but not to exceed \$2,500.00. Such additional escrow funds must be deposited with the Town before any further action or consideration is taken on the application. If, at the conclusion of the review process, the cost of such consultant/expert services is more than the amount escrowed pursuant hereto, the applicant shall pay the difference to the Town prior to the issuance of any Special Permit. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing by the Town's consultants or experts, the difference shall be promptly refunded to the applicant.

2. A request may be made by the applicant to reduce or eliminate the funds needed for the consultant/expert escrow. After a recommendation by the Attorney for the Town, Engineer for the Town and/or any other consultant/expert engaged by the Town pursuant to this chapter, the Town Board shall review the request and make a determination based upon the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town Board or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as required and requested by the Town, shall be paid by the applicant. The initial amount of the escrow deposit may be established by the Town Board upon receipt of information sufficient to make such a determination.

3. As used in this section, the term “costs and expenses” shall be deemed to include the reasonable fees charged by engineers, consultants and/or experts hired, reasonable administrative costs and expenses incurred by the Town in connection with the permitting process and the repair, restoration and preservation of Town Roads and other Town property, and reasonable legal fees, accountants fees, engineers fees, costs, expenses, disbursements, expert witness fees, and other sums expended by the Town in pursuing any rights, remedies or claims to which the Town may be entitled under this Local Law or under applicable provisions of law, as against any Permittee, any person who has violated this Local Law, any insurance company, any bonding company, any issuer of a letter of credit, and/or any United States or State of New York agency, board, department, bureau, commission or official.

4. These funds shall accompany the filing of the application, and the Town shall maintain a separate escrow account for all such funds.

5. The Town is hereby authorized to withdraw funds from said escrow account (without prior notice to the Permittee) in order to promptly reimburse the Town for any costs and expenses (as defined herein). The Town must provide a monthly update as to monies expended from the escrow account.

In the event that there is any balance remaining in the escrow account as of the date that the Town Board determines that the Permit has expired and further determines that no damages or injuries have been caused to any Town Road or other Town property (and that no discharges or spills have occurred on any Town Road or other Town property) for which the Town has not been full reimbursed, the Town shall pay to the Permittee the balance remaining in the escrow account.

Section 21. Request for a Waiver.

All requests for a waiver from the standards set forth in this local Law shall be made to the Town of Dansville Town Board in writing and shall, contain the grounds on which the appellant relies for requesting the waiver, including all allegations on any facts on which the appellant will rely. Where the Town Board finds that due to the special circumstances of the particular case a waiver of certain requirements is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Town Board finds and records in its minutes that:

(a) granting the wavier would be keeping the intent and spirit of this Local Law and is in the best interests of the community, (b) there are special circumstances involved in the particular case; (c) denying the wavier would result in undue hardship to the applicant, provided that such hardship has not been self-imposed, (d) the waiver is the minimum necessary to accomplish the purpose.

Section 22. SEQRA.

When applicable, the Town shall at all times comply with applicable provisions of the Environmental Conservation law of the State of New York and applicable provisions of the state environmental quality review regulations (6 NYCRR Part 617) (hereinafter "SEQRA").

Section 23. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Dansville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 24. Repealer.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 25. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2012 of the Town of Dansville was duly passed by the Dansville Town Board on June 14, 2012, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) on 20 , and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) and was deemed duly adopted on 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) on 20 , and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20 . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20 , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) on 20 , and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20 , in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)


I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 ____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November ____, 20 ____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

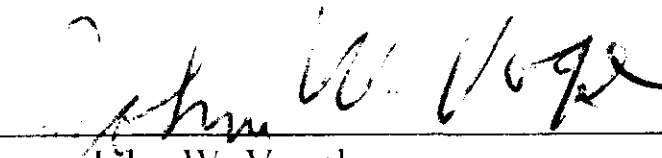
(Seal)

Date: June 14, 2012

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

State of New York
County of Livingston

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature John W. Vogel

Title Attorney for the Town of Dansville

Date: June 14, 2012