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☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of NORTH DANSVILLE

Local Law No. 4 **of the year 20** 22

A local law ADDING ARTICLE XIV SOLAR ENERGY SYSTEMS TO ZONING LAW
(Insert Title)

Be it enacted by the TOWN BOARD **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of NORTH DANSVILLE **as follows:**

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

(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. 4 of 2022 of the (County)(City)(Town)(Village) of NORTH DANSVILLE was duly passed by the TOWN BOARD on DECEMBER22 2022, *in accordance with the applicable* *(Name of Legislative Body)*
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 XXXXXXXXXXX was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*

on _____ 20[ ][ ], in accordance w ith 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 XXXXXXXXXXX was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer)*

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 XXXXXXXXXXX was duly passed by the _____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____. Such local
(Elective Chief Executive Officer)*

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.

Lori Tyler

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

(Seal)

Date: DECEMBER 29, 2022

TOWN OF NORTH DANSVILLE
LOCAL LAW NO. 4 OF THE YEAR 2022

A Local Law Entitled "Adding Article XIV Solar Energy Systems to Zoning Law."

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

Article XIV Solar Energy Systems of the Zoning Law of the Town of North Dansville shall be added to the said Zoning Law in its entirety and the new Article XIV shall read as follows:

ARTICLE XIV SOLAR ENERGY SYSTEMS

§1401. Authority and Legislative Intent.

The Board of Councilpersons of the Town of North Dansville states the following as its findings and legislative intent:

A. This Article of the Zoning Local Law is adopted pursuant to Article IX of the New York State Constitution, the Municipal Home Rule Law and the Statute of Local Governments, which authorize the Town of North Dansville to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.

B. The Board of Councilpersons of the Town of North Dansville recognizes that solar energy is a clean, readily available, and renewable energy source and the Town of North Dansville intends to accommodate the use of solar energy systems.

C. However, the Board of Councilpersons finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of North Dansville to protect residential uses, business areas and other land uses; to preserve the natural resources, overall beauty, nature and character of the Town of North Dansville; to promote the effective and efficient use of solar energy resources; and to protect the health, safety and general welfare of the citizens of the Town of North Dansville.

D. Accordingly, the Board of Councilpersons finds that the adoption of these regulations in this Article is necessary to properly direct the location, size, construction and control of these Solar Energy Systems, and the removal thereof when no longer utilized.

§1402. Definitions.

The following definitions shall apply to this Article:

ABANDONMENT - a solar energy system that has not produced electrical energy to the extent of at least 40% of original nameplate capacity for twelve (12) months in any eighteen (18) month period, or as otherwise defined in Section 1406 A.

BUSINESS – Any entity engaged in commercial, industrial, or professional activities that provides employment opportunities and broadens the tax base.

APPLICANT - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project if different than the owner; any person acting on behalf of an Applicant, Solar Energy System owner or proposed Solar Energy System

operator, the owner of the land on which the solar system is to be constructed, and all leaseholders of said land and/or said solar energy system. Whenever the term "applicant" or "owner" or "operator" are used in this Article, said term shall include any person or entity then acting as an applicant, owner, operator, or leaseholder of such land and/or such Solar Energy System.

BUILDING – A totally enclosed man-made structure.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM (onsite use) - Any Solar Energy System that is affixed to the side(s) or rear of a Building either directly or by means of support structures or other mounting devices, primarily intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business or farm but not including those mounted to the roof or top surface of a Building. (See definition of Roof-Mounted Solar Energy System)

COMMERCIAL BUILDING-MOUNTED SOLAR ENERGY SYSTEM (offsite use) - Any Solar Energy System that is affixed to the side(s) or rear of a legally permitted Building either directly or by means of support structures or other mounting devices, primarily intended to produce energy for offsite sale to and consumption by one or more customers.

COMMERCIAL ROOF-MOUNTED SOLAR ENERGY SYSTEM (offsite use) - A Solar Energy System mounted on the roof of any legally permitted Building and wholly contained within the limits of the roof surface, primarily intended to produce energy for offsite sale to and consumption by one or more customers.

DECOMMISSIONING - The removal and disposal of all Solar Panels, Solar Energy Equipment, Structures, equipment and accessories, including subsurface foundations and all other material, concrete, wiring, cabling, or debris, that were installed in connection with a Solar Energy System, and the total restoration of the parcel of land on which the Solar Energy System is built and soil thereon to their original state prior to construction, including but not limited to restoration, regrading, reseeding and rejuvenation of the soil to its preconstruction condition. Details of the expected Decommissioning activities and costs are to be described in the Decommissioning Plan and Decommissioning Agreement as is required pursuant to this Article.

DECOMMISSIONING AGREEMENT - A written Agreement between Applicant, Initial Landowner, as well as the proposed solar energy system owner and operator, and Town that sets forth the obligations of the Applicant, the Initial Landowner, and proposed solar energy system owner and operator, and all of their heirs, successors and assigns to properly decommission the Solar Energy System when the use of such system is discontinued, abandoned, becomes inoperable or is terminated voluntarily or involuntarily for any reason.

FARM OPERATION – Land and on-premises buildings, equipment, facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise (in accordance with Agriculture & Markets Law Section 301{11}).

FARMLAND OF STATEWIDE IMPORTANCE – Land designated as "Farmland of Statewide Importance" in the US Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage and oilseed crops as determined by the appropriate state

agency or agencies.

GLARE – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, nuisance, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the ground either directly or by support Structures or other mounting devices where such Structure and mounting exists primarily to support the Solar Energy System.

INITIAL LANDOWNER– The record title owner to the real property upon which a Solar Energy Systems is constructed, at the time the decommissioning agreement is executed, and the permits required by this law are obtained.

LEASEHOLDER- Any person or entity other than the owner that has obtained any right(s) to the solar energy system and/or the land on which it is situated.

LOCAL LAW, ETC. – Any reference herein to a law, local law, code, rule, or regulation shall mean said law, local law, code, rule or regulation currently in effect as it may be amended or replaced at any future time.

MATURE FOREST – Stands where fifty percent (50%) or more of the largest trees are 80 + years old or have an average trunk diameter of over 8 inches when measured two feet above its base.

NATIVE PERENNIAL VEGETATION – Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for Pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

NAMEPLATE CAPACITY – A solar energy system's maximum electric power output under optimal operating conditions. Nameplate Capacity may be expressed in terms of either Direct Current (DC) or Alternating Current (AC).

PRIME FARMLAND – Land, designated as "Prime Farmland" in the US Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

POLLINATOR – Bees, birds, bats, and other insects or wildlife that pollinate flowering **plants,** and include both wild and managed insects.

ROOF-MOUNTED SOLAR ENERGY SYSTEM (onsite use) - A Solar Energy System mounted on the roof of any legally permitted Building and wholly contained within the limits of the roof surface, primarily

intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, farm, or business.

SITE PLAN REVIEW – The application, materials, procedures, and processes required by this Article 14 as well as Section 204.1 supra of this Zoning Law of the Town of North Dansville.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR ENERGY EQUIPMENT – All manmade materials associated in any way with the production and/or transmission of solar energy, but not to include any battery storage system or similar device.

SOLAR ENERGY SYSTEM - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

STORAGE BATTERY – a device that stores energy and makes it available in an electrical form.

TILT – The vertical angle, where 0° minimum tilt means the panel is lying flat, and 90° maximum tilt means that it is vertical.

TOWN – The Town of North Dansville, Livingston County, New York.

TYPE 1 SOLAR ENERGY SYSTEM (onsite use) – A Solar Energy System primarily intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business, or farm. Said system shall be considered an Accessory Use (as defined in §109 of this Zoning Law) and an Accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public. Such Type 1 Solar Energy Systems may consist of Solar Energy Systems located on multiple sites within the jurisdictional limits of the Town of North Dansville, owned by the same person, entity, farm, or business, but in no instance shall the aggregate yield on the combined systems equal more than 110% of the electricity consumed by such person, entity, farm, or business within the previous 12 months. Type 1 Solar Energy Systems can be developed, operated, and maintained by a third-party by lease agreement or through a power purchase agreement. Type 1 systems can include Building-Integrated, Building-Mounted, Roof-Mounted, and/or Ground-Mounted solar energy systems intended to produce energy for up to 110% of on-site consumption.

TYPE 2 SOLAR ENERGY SYSTEM (offsite use) – A Solar Energy System primarily intended to produce energy for offsite sale to and consumption by one or more customers, as well as any solar energy system not included in the definition of Type 1 Solar Energy System above. Type 2 systems may also be referred to herein as "Commercial Solar Energy Systems", and include Commercial Building-Mounted, Commercial Roof-Mounted and those Ground-Mounted Systems intended to produce energy for off-site consumption.

§1403. Regulations for Type 1 Solar Energy Systems:

A. **Zoning Districts in which Allowed.** Type 1 Systems-are allowed in all zoning districts upon issuance by the ZEO of a zoning permit (Section 203.1-1) pursuant to section 204.1 based on the completed special application in form attached hereto at Appendix I together with all materials required thereby supplied by applicant to and approved by the ZEO. Note: unless otherwise specified herein, neither a Site Plan review nor a Special Use Permit are required

B. **Additional Requirements for Type 1 Roof Mounted Systems:**

1. Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface but shall not exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.

2. No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, a minimum three (3) foot wide center walkway for safe access purposes shall be required.

3. Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.

4. Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.

C. Additional requirements for Type 1 Ground Mounted System

1. Height. Type 1 Ground Mounted Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment to the ground directly beneath it.

2. Setbacks. Type 1 Ground Mounted Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.

3. Coverage. Type 1 Ground Mounted Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings within the zoning district in which it is located and in no event shall the combination of all accessory uses located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum Tilt.

4. Glare. All Solar Panels shall have anti-reflective coating(s). Glare shall be minimized to prevent adverse effects on all surrounding lands as well as public highways.

5. All Type 1 Ground Mounted Solar Energy Systems shall only be installed in accordance with section 703.10.

6. All applications for Type 1 Ground Mounted Solar Energy Systems, except for residences and farms, shall be subject to Site Plan review pursuant to section 204.1.

7. Pursuant to 6 NYCRR 617.5, Type 1 Ground Mounted Solar Energy Systems to be used on residential and farm parcels shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Ground Mounted Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.

§1404 Regulations for Type 2 Commercial Solar Energy Systems:

A. Zoning Districts in which allowed: Type 2 Ground Mounted Solar Energy Systems shall only be allowed in an Agriculture District (A), Industrial (I) both light and heavy, and/or a Conservation District (C). All other Type 2 Solar Energy systems are only allowed in the following zoning districts: Agricultural District (A), Business District (B), Light Industrial District (L-I), and Heavy Industrial

District (I-2). All are allowed only after all requirements of this Article are met, including Site Plan approval pursuant to section 204.1, and the issuance of a Special Use Permit pursuant to §204.2. All applications for the installation of all Type 2 Commercial Solar Energy Systems shall be reviewed by the ZEO with the assistance of the Town Project Engineer and other professionals needed to determine if the application, along with all supporting documents and materials, is sufficient and complete. The application shall be accompanied by an escrow deposit by the applicant payable to the Town in the initial amount of Fifty Thousand Dollars ($50,000.00), to be used by the Town as allowed herein. The application process shall not begin, and the application shall not begin to be reviewed, until said escrow amount is paid to the Town in full. Once the application is deemed sufficient and complete, the application shall be referred, with comments, to the Planning Board (PBD) (for Site Plan) and the Zoning Board of Appeals (ZBA) (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial. For purposes of Type 2 solar energy systems, the ZBA and PBD shall work together and hold joint meetings to promote efficiency of the processes required herein. The procedure for same shall be as determined at the time by the chairpersons of said two boards. If they cannot agree, the procedure shall be set by the Town Board. This does not take away the separate authority of said boards, with the PBD having authority for site plan review and the ZBA having authority to issue the special use permit.

B. SPECIAL USE PERMIT AND SITE PLAN REVIEW APPLICATION FOR ALL TYPE 2 SYSTEMS:

The Site Plan Review Application shall include all information required by Sections 204.1, 204.2 and 205 as well as but not limited to those materials necessary to show full compliance with all the applicable Design Standards set forth in Section 1404 C below such as all size and setback dimensions (1404 C), a glare analysis (1404 C1b), an emergency accessibility plan (1404 C1c), a noise study (1404 C1e), a fencing/screening/buffering plan, a vegetative management plan, a landscaping plan, and a viewshed impact analysis with renderings showing visual impacts after five (5) and ten (10) years (all stated in 1404 C4f), a vegetation habitat plan (1404 C4j), and a soils composition study and map (1404 C4g). In addition to the above, the following shall also be submitted for the Special Use Permit application as well as where applicable for Site Plan Review: (Note: all materials, documents and information must be fully satisfactory to and approved in form, substance, and detail by both the ZBA and PBD.) Further, each said Board shall have the latitude to require in its sole satisfaction such other data and materials as in its reasonable judgment is required to ensure that the project is constructed in the best interest of the public safety and welfare of the Town and its inhabitants.

1. Proof satisfactory to the ZBA that the proposed Owner of the solar energy system to be developed owns the required land on which said system is to be developed or has leased said premises for the entire useful life of the system. If the location of the proposed project is to be leased (either building facade or surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased area(s) for the duration of the project, including all signed lease agreements, easements, and other agreements between the parties. The lease agreement(s) between the proposed Solar Energy System owner and/or leaseholder(s) and an Initial Landowner(s) shall conform to or be amended to conform with the requirements set forth in this Article and in the Decommissioning Agreement referenced in subsection 1403 B.11 below. To the extent that any lease terms are inconsistent with this local law, the terms of this local law shall control.

2. Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System with a detailed description and location of all components, all non-building mounted improvements and/or infrastructure, all post locations and any bedrock problems therewith, all proposed clearing and grading of the lot(s) on which the structure housing the Solar Energy System is situate, all anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Solar Energy System, and all utility lines (both above and below ground) on the site and adjacent to the site. Also, a structural analysis signed by a Professional Engineer, demonstrating the

structural adequacy of the building upon which a Commercial Building-Mounted and/or Roof Mounted Solar Energy System is to be placed to support such system in a safe fashion. For ground-mounted systems, the applicant shall provide an adequate Post-Refusal Plan/Study to determine proper foundation selection and avoid installation issues. Soil bore testing shall be performed and alternate foundation designs should be considered and planned for if post refusal occurs. Results shall be provided to the ZEO and Town Project Engineer.

3. An instrument survey prepared by a licensed New York State land surveyor showing all lot lines of the premises on which the system is to be constructed, as well as the locations and area dimensions of all existing and proposed structures thereon together with their present and intended future uses, as well as the property lot lines and the locations and area dimensions of all existing Buildings and other Structures and their uses on all parcels within 500 feet of the outer perimeter of the Solar Energy System.

4. Equipment specification sheets for all Solar Panels, significant components, mounting systems, inverters and all other Solar Energy equipment that are to be installed. The solar panel model type, manufacturer and country of origin, number of equipment pads, and full design layout shall be provided. Currently, tracking arrays are preferable until newer more efficient technology is available. All equipment to be installed must be new and not used or recycled, using the latest, most efficient technology, and shall have a minimum life expectancy of at least twenty-five (25) years, all as determined and accepted by the Town Project Engineer. Final specification sheets, material safety data sheets, and chemical composition data as well as the installation thereof shall be reviewed by the Town's Project Engineer to ensure that all are as allowed by the site plan and special use permit and by local/state/federal regulations are met. Submission shall include the identification of the solar manufacturers and all hazardous and non-hazardous components. All hazardous components shall be identified, and their impact mitigated by the Applicant to the Town's satisfaction.

5. A site-specific Property Operation and Maintenance Plan acceptable to the Town describing in detail all ongoing as well as periodic preventive, corrective and efficiency productive maintenance of the Solar Energy System and upkeep of the property that houses such Solar Energy System throughout the useful life of the system. The Plan shall require that at all times the system continue to be in good and efficient operation, nameplate capacity be maintained, the premises maintained and kept in good condition, all accessory roads and thoroughfares maintained and clear to allow for all necessary emergency access, and that the ground soil not be damaged or contaminated. The plan shall specify the maximum time or other measure by which damaged panels and equipment must be repaired or replaced, access roads plowed and maintained, weeds removed, as well as other times required by the Town. The Plan shall also require a requirement for updating panels and equipment as new and/or more efficient technology becomes available. Among other things, the plan should also consider and set forth requirements for a) potential/proposed pesticide/herbicide/fertilizer use, b) potential/proposed water use or well-drilling, c) vegetative abatement and maintenance procedures, d) practices to adhere to applicable local, state and federal regulations, e) practices to minimize impacts to pollinator habitat, on-site wetlands and any potential future agricultural co-location practices, f) submission of all proposed recycling and removal/disposal/containment/hauling procedures, covering all solar energy system components/panels, costs and timelines and g) identification of waste disposal sites and certified recyclers to be used for regular maintenance removal as well as decommissioning. If wetlands and/or streams are located on the subject parcel, a Wetland Delineation Plan and associated correspondence from NYSDEC must be submitted, along with a copy of the Stream and Wetland Remediation Plan to be submitted to NYSDEC for any unintended disturbances. At all times after construction begins and until decommissioning is complete, the Town shall be provided access and allowed to inspect the premises and system on any day upon giving 24 hours' notice by telephone or email to the last known contact point of the system operator or owner and shall be able to enter forcefully if access is not so allowed. The then current system owner and operator shall keep the ZEO advised at all times of the names and all contact information for all persons and agents of the system owner and

operator responsible for access to and maintenance of the system and shall timely comply with all code violation orders served by the ZEO on any such person or agent. The owner and system operator shall conduct preventive maintenance of the solar energy system at least every two (2) months as well as immediately after all severe weather events and shall submit detailed inspection and remedial repair reports to the ZEO within one (1) calendar week thereafter. All maintenance shall be the joint and several responsibilities of the system owner, system operator, the landowner and all of their successors and assigns.

6. Clearing, grading, storm water and erosion control plan. If circumstances necessitate, as determined by the PBD, ZBA and/or the Town's Project Professional Engineer or consultant, Applicant shall prepare and submit a Storm Water and Erosion Control Plan prepared by a New York State Professional Engineer to the Town's Project Engineer for review and approval. The plan shall demonstrate that any and all effects from post development runoff, storm drainage and erosion will not negatively impact the property and/or adjacent premises at any time during the useful life of the solar energy system or after decommissioning is complete.

7. A Construction Schedule Flow Chart along with approximate data on anticipated truck trips per day, including during peak material delivery periods, and anticipated totals for the entire project. Also, the size and locations of all staging areas, parking areas, as well as other areas off-site to be used. Construction and construction traffic shall be conducted on such days and at such hours as approved by the PBD to reduce the noise and negative effect on others. Truck/hauling routes shall be established for all construction and delivery equipment. State, County and local approval for such road use shall be obtained and submitted.

8. All such additional information as may be required by the Town's project professional engineer or consultant, the PBD, the ZBA, Town Attorney and/or ZEO.

9. An irrevocable construction bond and/or irrevocable letter of credit in form and amount determined by the Town Board equal to 150% of the cost to repair all potential damage to highways and all other public property during construction, the cost of full reclamation of the land and buildings to their preconstruction condition if the solar energy system is not timely completed, plus any other expenses anticipated to be incurred by the Town during construction, all of which the applicant, landowner and the proposed solar energy system owner shall be jointly and severally responsible for. If they fail to timely meet any of their responsibilities as determined by the Town Board, the Town may do so at the applicant's, landowner's and proposed system owner's expense which shall be paid in full to the Town by said bond. Said bond may be used to such extent at any time by the Town Board as it determines in its sole discretion if it incurs or is about to incur any such damages and/or expenses. If the bond is insufficient to cover all of the Town's expenses so incurred, the Town may take all other legal remedies allowed by law against all responsible parties.

10. Decommissioning Plan. To ensure the proper decommissioning of a Type 2 Solar Energy System after such improvements are no longer reasonably operable or have been abandoned or said system has been otherwise terminated, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan shall contain a written and visual photographic record of the original site condition (prior to commencement of construction of any Solar Energy System) with all necessary data and pre-construction soil sampling with survey grade accuracy to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the Solar Energy System is no longer operational or has been abandoned or otherwise terminated, it shall be decommissioned, including the total removal of all solar related materials, equipment and foundations and pillars, and the full restoration of the premises and rejuvenation of the soil to their preconstruction conditions, as determined by the ZBA. Such decommissioning shall be totally completed within six (6) months after the system is no longer reasonably operable, is abandoned or is otherwise terminated, TIME IS OF THE ESSENCE. The plan shall

demonstrate in full detail how the removal of all infrastructure of the Solar Energy System and all Solar Energy Equipment shall be conducted, as well as the methods by which the premises shall be restored and the soil rejuvenated, so as to return the structure(s) and the entire premises to their original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. The Decommissioning Plan must be approved by the ZBA. Cost estimations shall factor in inflation and shall be based on the operating life expectancy of the system. Note: At the time of decommissioning, the Town, by the PBD, may but is not required to entertain the desires of the then current landowner as to what portions, if any, of the system can remain and do not need to be removed from the site.

11. Maintenance and Decommissioning Agreement. Prior to obtaining a zoning permit and as a condition to issuance of any Special Use Permit, the Applicant, Initial Landowner, the proposed Solar Energy System owner and operator, and all leaseholders must enter into a Decommissioning Agreement with the Town Board, with advice from the ZBA and PBD, that sets forth the joint and several obligations of the Applicant, the Initial Landowner, the solar energy system operator and solar energy system owner, all leaseholders, and all of their heirs, successors and assigns to properly maintain the Solar Energy System and decommission it when in the determination of the Town ZBA the use of such system is discontinued, abandoned, becomes inoperable or is otherwise terminated. Said Agreement shall require the Applicant to provide an irrevocable financial security bond, or other form of surety, acceptable in form, substance, and amount to the Town Board in its sole discretion for maintaining the system during its life as well as decommissioning of the system, with the Town as the designated assignee/beneficiary. The amount of the bond shall be determined by the Town Board, with input from the ZBA, PBD and town consultants. Said amount shall equal 150% of the estimated cost of maintenance of the system throughout system life, and the estimated decommissioning cost, including but not limited to the removal and disposal of all solar related materials and equipment, piers and foundations, and the total restoration of the premises and rejuvenation of the soil to their original preconstruction conditions. The salvage value of the solar energy equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan. Said bond or other surety shall be in effect before the special use permit is granted and before any site work is commenced. The bond or other surety shall provide for an annual increase in the amount of the surety as determined yearly in the sole discretion of the Town Board to compensate for any use of the bond, the cost of inflation and any other then-anticipated increases in costs of maintenance and decommissioning. Each year after a Solar Energy System has been constructed, and no later than thirty (30) days after being notified by the Town of the new amount of the bond, the then system owner/permit holder for the system shall provide the Town written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to the new amount determined by the Town. The Maintenance and Decommissioning Agreement shall provide that the Initial Landowners, the Applicant, the initial Owners and initial Operator of the Solar Energy System, all leaseholders and all of their successors and assigns shall be jointly and severally responsible for the timely completion of all obligations pursuant to the Maintenance and Decommissioning Agreement. If any obligation(s) is not timely completed, the Town may complete the obligation(s) at the aforesaid obligors' expense; the Town shall have the irrevocable right to execute upon and be paid in advance from said bond for all anticipated expenses of completion including but not limited to all consultant costs. Said Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against all the property upon which the Solar Energy System is constructed, with the Town as the benefitted party, thus placing all future owners and interested parties of the subject real property on notice of the obligations contained in the said Agreement.

12. **Compliance with regulatory agencies.** As a condition to obtain a Special Use Permit the Applicant/proposed solar system owner is required to timely obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and

approval powers related to the completion of a Type 2 Solar Energy System. A copy of all such applications, all communications concerning same and the resulting approvals, permits and/or denials thereof shall be provided within seven (7) days from the time of its sending by or receipt by the applicant/proposed system owner to the Town, Attn the ZEO.
In addition, the New York State Department of Agriculture and Markets "Guidelines for Solar Energy Projects -Construction Mitigation for Agricultural Lands" currently in effect and as amended in the future shall apply, except to the extent this local law may be more restrictive.

13. Each application under this Section shall meet all substantive Site Plan requirements in §204.1 that, in the judgment of the PBD, are applicable to the Solar Energy System being proposed. The PBD shall be required to hold a public hearing relating to the Site Plan for every Type 2 Solar Energy System.

14. Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617). The PBD and the ZBA shall conduct a coordinated review.

15. The Applicant, system owner, system operator, and any other person(s) or entity(ies) then in control of the site shall be required to facilitate site visits by the PBD, ZBA, ZEO, the Town's Project Engineer, the Town's Environmental Monitor, and/or anyone on their behalf, upon their giving twenty-four (24) hour advance notice other than in case of emergency, at all times such Town personnel request during the Site Plan process to help facilitate site plan review, during the construction process to ensure that all requirements are being met, as well as during the operational life of the system and during its decommissioning. Failure to allow such Town personnel to enter onto and inspect said site as such personnel request shall allow such personnel to forcibly enter the premises. If such entry is prevented, operation of the solar energy system shall be automatically and immediately suspended.

16. **Highway Use Agreement**. Prior to issuance of any building permit for the construction, revision, or alteration of a Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter a written Highway Use Agreement benefitting the Town and in form and substance acceptable to the Town in its sole discretion. Such Highway Use Agreement shall require Applicant, the proposed solar energy owner, and the General Contractor to jointly and severally indemnify and hold the Town harmless from all damage to all highways within the Town that may result from the development, revision and/or alteration, operation and decommissioning of Applicant's Solar Energy System. As a part of such Highway Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety) acceptable to the Town in its sole discretion, benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above. Said surety shall be in an amount solely determined by the Town equaling 150% of all reasonable potential expense above required to be indemnified. The amount of the bond shall be reviewed and may be increased annually under the same guidelines and process as for the surety bond required for the Maintenance and Decommissioning surety bond in section 1404 B 11 above. The construction bond referred to above (Section 1404 B 9) may be used in lieu of this bond.

    a. If any damage is caused to any Town highway because of the construction, revision, or alteration of an Applicant's Solar Energy System as determined in the sole discretion of the Town Highway Superintendent, said Applicant, proposed solar energy system owner and its General Contractor shall be jointly and severally responsible to perform repairs to such highway that are acceptable to the Towns Highway Superintendent in his/her reasonable discretion.

    b. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair is personally served or sent via certified mail or email to Applicant or its General Contractor. Should Applicant or its General Contractor fail to complete such repairs within

sixty (60) days, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety), with written notice to Applicant and its General Contractor, in such amount as the Town requires in its sole discretion to make all such repairs.

c. A baseline investigation of Town Highways including photos/videos shall be required by the Town PBD prior to the beginning of construction, revision, or alteration of the solar energy site to determine the condition and integrity of the roadway. Likewise, a final investigation including photos/videos shall be conducted after the construction, revision, or alteration of the site is completed to determine if any substantial impacts have occurred due to the proposed project.

d. The proposed project should minimize potential parking, delivery, and traffic impacts on state, county, and local roadways. The proposed site plan should provide adequately sized construction staging and parking areas, including for the anticipated numbers of workers and equipment. These areas should be placed in order to minimize potential impacts to said roadways and nearby residences and other structures. At no time is loading or unloading equipment or materials allowed on said roadways. Adequate turning radii for trucks must be considered in the design of staging and parking areas. The Applicant shall comply with New York State Department of Transportation permitting requirements and any additional needs for signage for traffic safety. The Applicant should submit the site plan, hauling/truck routes and trip data to the Town, Village and County Highway Superintendents and Town Project Engineer to ensure that the proposal meets all Town/ Village of Dansville, and County of Livingston approvals and permit requirements.

e. The provisions of the Highway Use Agreement required hereby, and the requisite financial security bond (or other form of surety), shall remain in full force and effect for no less than one year after all construction, revision, or alteration has been completed and the project has been certified as complete by the Town's professional engineer.

f. No building permit may be issued for any approved Solar Energy System until such time as a Highway Use Agreement has been executed by all parties.

g. Traffic Routes. Construction and delivery vehicles for All Solar Energy System shall use traffic routes established as part of the application's review process, with advisement from the Town Highway Superintendent. Factors in establishing such corridors shall include but not be limited to:

   (1) Minimizing traffic impacts from construction and delivery vehicles.

   (2) Minimizing Solar Energy System related traffic during times of school bus activity.

   (3) Minimizing wear and tear on local highways.

   (4) Minimizing impacts on local businesses.

   (5) Special Use Permit approval may contain conditions that limit Solar Energy System related traffic to specified routes and times and include a plan for disseminating traffic route information to the public.

17. **Community Benefit Agreement.** The owners or developers and landowners of the property upon which a Type 2 Solar Energy System is to be developed shall be required to enter into a community benefit agreement with the Town Board for payment by the owners, developers, and/or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that

may be associated with any Solar Energy System. A Special Use Permit may not be issued for any approved Solar Energy System until such time as a community benefit agreement has been executed by all parties.

18. Bonds. Instead of having several bonds or other forms of surety as required herein, the Town in its sole discretion may accept one (1) single bond or other form of surety acceptable to it, or irrevocable letter of credit that satisfies all the bond requirements herein. However, the Town still can require from applicant advance deposits as otherwise allowed herein to pay the costs of professional it engages. Further, the Town in its sole discretion can require one or more irrevocable letters of credit from a commercial bank it chooses to be provided by the applicant in lieu of or in addition to such bonds or other forms of surety. All such bonds, letters of credit, etc., shall contain terms that the sums requested by the Town shall be immediately paid to the Town in the amount it requests simply upon the presentation by the Town to the insurance company, other surety and/or bank only of a Notice by the Town to the Applicant or Project Owner that there is a default or other requirement and that said sum of money is owed to the Town. The Town shall not have any requirement to prove a default or support the amount of money it requests. Also, all such bonds, other forms of surety and irrevocable letters of credit provided must continue in effect for the entire life of the system through satisfactory decommissioning, whether or not there occurs any transfer of any rights and/or obligations of the applicant, project owner, project operator, land owner, or anyone else having a financial interest in said solar energy system.

19. A special use permit shall not be issued until ALL requirements and conditions for site plan approval and for such permit issuance are met to the full satisfaction of the ZBA and PBD, and a legal agreement is signed by applicant setting forth in full detail all such requirements and conditions relied on by the ZBA and PBD for the permit to be issued. Every one of said requirements and conditions must then be completely fulfilled before an operating permit can be issued and the system can begin operation. If after operation begins, any of said conditions or requirements are failed to be met, both the special use permit and operating permit can be suspended, preventing further operation until all conditions and requirements are met again.

20. The Applicant/Owner and all successors and assigns shall secure and maintain public liability insurance in favor of the public and naming the Town as a co-insured. It shall be in effect from the issuance of the special use permit up through the completion of the decommissioning plan. The form, substance, terms, issuing company, and liability limits for all types of occurrences must be satisfactory to the Town Board.

C. Design Standards

1. Standards applicable to all Type 2 Solar Energy systems:

   The following standards are applicable to all Type 2 systems:

   a. Fencing and Screening. All Solar Energy Equipment shall be securely enclosed or placed about the property to prevent unauthorized access. Warning signs with the owner's contact information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access. Adequate screening as determined by the PBD shall be provided to prevent any adverse effects to, and to maintain the beauty, character, and nature of, the locale.

   b. GLARE. All solar panels shall have anti-reflective coating. Glare shall be minimized to prevent adverse effects on all surrounding lands as well as public highways. The Applicant shall provide a glare analysis acceptable to the PBD.

   c. Every Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management

Services and local fire chief. The roadways to and inside the solar system compound around the entire perimeter shall be twenty (20) feet wide and constructed, surfaced and maintained so as to be adequate as determined by the Town Engineer and local Fire Chief to allow for ingress, egress, and staging space for all potentially necessary emergency vehicles. Wiring between arrays (rows) of panels shall be underground, the cleared distance between rows with panels extended maximum horizontally shall be at least twelve (12) feet, and the surface of the land between rows flat, unobstructed, and in such condition so as to readily allow access by four-wheel vehicles throughout all rows of panels. One or more ingress gates to the site on each side of the site as located by the Town Engineer and local fire chief shall be installed to allow access for all emergency vehicles from all sides of the compound.

d. Every solar energy system, the land thereon, all co-located uses therewith and the entire site shall be always maintained in good working order. Degraded or damaged solar panels shall be immediately removed from site and replaced. All trees and other plantings for screening purposes shall be trimmed at least yearly. All grass and weeds shall be mowed regularly and kept at a low level beneath the lowest level of panels for ground mounted panels. All perimeter access roads shall be maintained and plowed to allow emergency vehicles to travel into and throughout the site.

e. NOISE. Noise levels from the solar energy system shall comply with the noise limits for solar energy facilities contained in the New York State Office of Renewable Energy Siting regulations at 19 NYCRR 900-6.5(b) by implementing the design required by 19 NYCRR 900-2.8. A study of the noise impacts of the construction and operation of the solar energy system shall be provided showing compliance with said standards and also showing minimum adverse effects on other properties in the area. Such study shall analyze the projected noise levels for both daytime and nighttime periods generated by the construction and operation of said system and all substation collector equipment relative to all effected dwellings in the area.

f. The Town ZBA shall have the right at all times to approve in advance all of applicant's, system owner's and/or system operator's successors, assigns, subcontractors, lessees and/or other persons or entities to whom or which any rights or obligations concerning the solar energy system are granted or transferred throughout the application, construction, operation and decommissioning stages. The Town ZEO must be notified at least sixty (60) days in advance before any transfer occurs. The new transferee must submit a signed written document agreeing to fully follow and adhere to all requirements and conditions of the site plan and special use permit or specify in detail how it intends to deviate from same. If any deviation is intended to occur or in fact occurs, the special use permit shall be automatically suspended and a new site plan review and special use permit application process shall be required before solar energy site operation may be resumed. Further the transferee must prove to the full satisfaction of the Town Board that all bonds, other forms of surety, irrevocable letters of credit and escrow funds and obligations shall fully continue in favor of the Town. No transfer of any rights or obligations shall occur or be allowed until approved by the Town Board and ZBA.

2. Standards also applicable to Type 2 Building-Mounted Systems

a. Height. Commercial Building-Mounted Solar Energy Systems shall be constructed in such a way that no portion of such system is higher than the highest point of the wall upon which it is attached.

b. Distance From Building. Energy Systems shall be constructed in such a way that no portion of the Solar Panels projects more than 18 inches from the surface of the wall upon which it is attached.

c. Number of Commercial Building-Mounted Solar Energy Systems allowed per Lot. No More than one Commercial Building-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.

3. Standards also applicable to Type 2 Roof-Mounted Systems:

   a. Height and Angle. Commercial Roof-Mounted Solar Energy Systems shall be constructed such that Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but no portion of the Solar Energy System shall exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.

   b. Panel Location. No part of a Commercial Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, there shall be a minimum three feet wide center walkway between panel arrays for safe access purposes.

   c. Equipment Location. Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.

   d. Number of Commercial Roof-Mounted Solar Energy Systems allowed per Lot. No more than one Commercial Roof-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.

4. Standards also applicable to Type 2 Ground Mounted Systems.

   a. Height. Type 2 Ground Mounted Solar Energy Systems shall not exceed a maximum height of eighteen (18) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.

   b. Setbacks. Type 2 Ground Mounted Solar Energy Systems shall have a front setback no less *than 200 feet (to enclosure fencing) from edge of pavement of any public or private* roadways and setbacks of 100 feet (to enclosure fencing) from all side and rear property lines. In addition, no Type 2 Solar Energy System shall be located closer than 400 feet (to enclosure fencing) from any Dwelling or Accessory Building related to a Dwelling located on another parcel.

   c. Lot/Parcel Size. Type 2 Ground Mounted Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.

   d. Lot/Parcel Coverage. Type 2 Ground Mounted Solar Energy Systems shall not exceed 25 acres of coverage on parcels that are 40 acres or more in size. On parcels that are less than 40 acres in size, Type 2 Solar Energy Systems coverage shall not exceed 60% of the total parcel size. Further, Type 2 Solar Systems coverage shall not be sited on more than 10% of any parcel of Prime Farmland and/or Farmland of Statewide Importance. If possible, siting of such systems on such farmland should be avoided. It is the intent of this latter restriction to protect the valuable resource and benefits of Prime Farmland and Farmland of Statewide Importance. It is the express intention of the Town that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems on Prime Farmland and/or Farmland of Statewide Importance by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt and shall not include required fencing or access roads.
   Exception to prime farmland/ farmland of statewide importance restrictions: In those portions of industrial districts that contain active industrial uses that are likely to contain future

industrial uses and are not likely to return to agricultural use, the aforesaid restrictions shall not apply.

e. No Type 2 Ground Mounted System shall be permitted on that portion of any site that contains more than one (1) acre of Mature Forest at the time the application was filed or was a Mature Forest one (1) year prior to the submission of an application for the Type 2 Ground Mounted Project. Said forested area(s) shall not be included in calculating the parcel size in subparagraph d. directly above (Section 1404 C 4 d).

f. Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. The Applicant shall be required to provide fence design and installation that is animal friendly and allows for small animal migration. Fencing shall have a minimum height of eight (8) feet above ground level. The fencing shall be covered in green material approved by the PBD to prevent view of the interior of the site. This material shall begin one (1) foot above ground level to allow for small animal migration. The fencing shall surround and enclose the entire site. A visual rendering of the actual fence design intended to be used shall be submitted to and agreed upon by the PBD. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the Solar Energy System shall be required to be further screened by landscaping to avoid adverse aesthetic impacts. All buffering/landscaping materials shall be designed with a staggered appearance as approved by the PBD to create a natural appearance, hide the site and be aesthetically pleasing, mitigate noise impacts, protect against possible disease, and promote sustainable, native species and environmentally conscious variety, which shall include a mixture of plant species, sizes/heights, deciduous and evergreen trees and/or shrubs and shall be noted in detail on a landscaping plan that shall be approved by the PBD. Minimum tree heights shall be eight (8) feet and shall be designed and located to hide the fencing from the road and/or neighboring residential areas. Any landscaping that does not flourish shall be immediately replaced, with approval of the type and location by the PBD. The PBD shall provide for enhanced screening and buffering for Type 2 Ground Mounted Solar Energy Systems that are placed adjacent to residentially zoned areas, areas containing residential parcels or abut a public road. The PBD can require pollinator plantings. For pollinator plantings, the highest-grade pollinator plant seed mixes, providing a greater percentage of pollinator plants over grasses, should be utilized. The Town should utilize a licensed landscape professional/Biologist/ Botanist to assist with the selection and location of site-appropriate native non-invasive landscaping plant and seed selections and any future plant replacements. Applicant shall provide a viewshed/line-of-site analysis, with scaled color visual renderings to demonstrate the adequacy of proposed buffering/screening/landscaping at the completion of construction of the Solar Energy System, and similar visual renderings of the projected maturation of the buffering/screening every ten (10) years thereafter throughout the useful life of the Solar Energy System.

g. Soil Composition and Site Condition. Applicant shall provide a written and visual photographic record of the pre-development site condition, which must be verified as to being complete by the ZEO to facilitate full and proper remediation of the site and rejuvenation of the soil upon decommissioning. Among other things, this shall include a comprehensive soil composition and nutrient analysis and map thereof prepared with survey grade accuracy for the entire parcel(s) of land of the landowner on which the solar energy system is to be built by a qualified expert acceptable to the Town Project Engineer. Once a soil sampling program has been conducted to establish a benchmark for soil conditions throughout the parcel(s) where the solar energy system is to be sited, soil sampling comparisons shall be conducted at least every three (3) years to monitor soil conditions under and around the solar array areas. NYSDEC shall be notified and consulted if the results of the soil testing require soil mitigation measures. Soil testing shall be in accordance with Cornell University's soil testing guidelines.

h. Number of Type 2 Ground Mounted Solar Energy Systems allowed per Lot. Only one Type

2 Solar Energy System shall be allowed per Lot or parcel, regardless of Lot size.

i. Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the ZBA shall consider the Lot or parcel to be the largest configuration of the physical area where the Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town within the ten (10) years immediately preceding the application seeking approval for such Solar Energy System. This provision is specifically intended to prevent any owner of land from subdividing such land into smaller parcels that would permit siting of multiple Solar Energy Systems on what would have otherwise been a lot or parcel that was restricted to one Solar Energy System that would not exceed 25 acres of coverage.

j. Vegetation and Habitat. Type 2 Ground Mounted Solar Energy System owners/developers shall develop and provide a written vegetation management plan which shall be approved by the PBD to implement and maintain native, non-invasive plants and vegetation under and around the Solar Panels, such plantings to provide foraging habitat beneficial to game birds, songbirds, and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native, non-invasive plant species and seed mixes.

k. If a Type 2 Ground Mounted Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the current guidelines as established by the New York State Department of Agriculture and Markets relating to Agricultural Mitigation for Solar Energy Projects. If such state guidelines and this local law are in conflict, the stricter requirements in each shall apply.

l. Agrivoltaics. Agrivoltaics or dual-use solar is the practice of co-locating solar energy production and agricultural operations, including but not limited to sheep grazing, bee keeping, pollinator planting, and crop production. Agrivoltaics may require site-specific features, such as: specialized fencing; customized planting/seeding; access to water, electric and parking; and design specifications for solar panel arrangement and ground-to-panel heights, among others. If agrivoltaics is or may occur on the solar system site at any time during operation of the solar system, a detailed Agrivoltaics Integration Plan shall be submitted to, and its contents approved by the PBD in the initial application and prior to commencement of construction of the solar energy system. Such plan shall be designed for dual-use activities by a Professional Engineer and supported by a state licensed Biologist/Botanist. Soil testing and forage testing shall be required by the PBD prior to construction and at yearly intervals throughout operation to determine suitability and safety for agrivoltaic uses and pollinators. Proposed projects shall ensure that pesticide applications will not be utilized in areas with pollinator plantings, and that appropriate signage shall be posted in and around such planted areas. The Plan shall require that maintenance of the dual-use system be timely and continual, and that a Town representative inspect same at least monthly or more often to ensure that the system is operating efficiently and to ensure that the pollinator plantings and/or forage are fully established and persist over time. Project details and specific site features associated with the agrivoltaic operations shall be included in the Site Plan, Operations and Maintenance Plan, and the Emergency Response Plan and protocols.

D. Other Regulations for Type 2 Systems:

1. Project Engineer and Environmental Monitor. The Town shall hire a Project Professional Engineer to assist the Town, its Boards and the ZEO from the time of submission of the initial application through completion and approval of construction of the Solar Energy System, its operation, and its final decommissioning. Pre-construction and construction conferences shall be

held prior to commencement of construction and at least monthly after construction commences. The time and place of each conference shall be decided by the Town. At a minimum, the following shall attend: the Town Engineer for this project, the Town ZEO, other Town officials including the Highway Superintendent, the Applicant, the proposed system owner, the Landowner, representatives of other public agencies interested in this project and such other persons as the Town Project Engineer requests. The topics of each conference shall be set by the Town Engineer and shall be utilized among other things to coordinate construction activities, ensure compliance with all required permits, approve or disapprove minor changes and to prevent, mitigate and repair damage to the site and/or public property. The Town can additionally hire an expert individual or firm as an Environmental Monitor throughout from the initial application process through decommissioning to protect all natural resources on site. The extent of monitoring shall be determined by the Project Engineer. All costs of the Project Engineer and Environmental Monitor shall be borne by and paid by the Applicant as set forth in subparagraph 6 directly below.

2. General complaint process. During construction, the ZEO can issue a stop work order at any time for any violations of a Special Use Permit approval or condition thereof, Site Plan approval or condition thereof or Building Permit. During as well as after construction is complete, the permit holder of a Type 2 Solar Energy System shall at all times establish and notify the Town ZEO and ZBA of the system's contact person(s), including name, address, telephone number and e-mail address (if available) for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements. All communications from the ZEO shall be effective immediately if delivered personally or sent by electronic means. If sent by mail, the same shall be effective three (3) days after mailed.

3. Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within six (6) months of such approvals, or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force or effect at law.

4. Inspections. Upon reasonable notice at any time during the life of the system, the Town Project Engineer, the ZEO, the Town's Environmental Monitor (EM), and/or their designees, may enter a Lot on which a Type 2 Solar Energy System has been approved for the purpose of determining compliance with all requirements or conditions of this Article or any approval given, or permit issued pursuant to this Article. During construction, the applicant's/ project owner's engineer shall inspect all of the construction on at least a weekly basis, and submit a written report to the Town's Project Engineer no later than two (2) business days thereafter. Once construction is complete, an operating permit is issued, and operation begins, then the ZEO shall inspect the premises and operation for compliance at least once per month for the first six (6) months, and then at least once every six months thereafter, or more, if necessary, as deemed by the ZEO, throughout the life of the system. Consent is not required, and the Project Engineer, ZEO or EM may enter forcibly if necessary. Except in case of emergency, twenty-four (24) hour notice by *telephone or other electronic means to the owner/operator or designated contact person shall be* deemed reasonable notice. The Town Engineer, ZEO, EM and/or their delegates may enter the premises without notice in case of emergency as determined by law enforcement, or local fire chief or other emergency personnel. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town at any time upon a determination by the ZEO that damage to such system may have occurred. Additionally, every five (5) years during the life of each type 2 ground-mounted solar energy system, soil sampling of the site shall be conducted by an agency hired by the Town to determine if any damage is occurring to the soil(s). A copy of the written report for each aforesaid inspection shall be submitted to the ZEO and EM as soon as possible. All fees and expenses associated with these inspections, samplings and testing shall be borne entirely by the

permit holder and shall be reimbursed to the Town within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges shall result in suspension of any Special Use Permit granted and all operation of the system until such charges are paid in full. The Town reserves the right to also levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located. Further, the ZEO shall notify the then current owner of the land, owner and operator of the system and leaseholders, if any, of the land and/or system of all damage and/or violations found, the remedial correction(s) that must be made, the time when the corrections must be made which shall not exceed ninety (90) days from the date of notice, and that if such corrections are not made in such time, this local law hereby requires that the special use permit for such system shall then be immediately suspended and the system shall cease operation until such corrections are made to the ZEO's satisfaction. All then current landowners, current owners and operators of the Type 2 system and all current leaseholders must immediately notify the ZEO of their names, physical addresses, post office addresses, email addresses, telephone numbers and like information for each of their contact persons, as well as changes to all such information as soon as it **occurs.**

5. After completion of construction of a Solar Energy System, the Applicant/ proposed solar energy system owner shall provide a post- construction certificate from a Professional Engineer registered in New York State, stating that the Solar Energy System complies with all applicable laws, local laws, codes, rules and regulations and industry practices and has been constructed and is operating according to the design plans and all conditions and requirements of the site plan and special use permit. As a condition of operation of the system, such construction as well as such certificate shall be reviewed by and approved by the ZBA and the PBD with the assistance of their consultants. Until such approvals are had and the ZEO then issues an operating permit, the system shall not be placed in operation.

6. Town costs shall be borne by applicant. At its sole discretion, the Town Board, or the PBD and/or the ZBA with approval of the Town Board, shall have the absolute right from the date of first application through the entire life of the system and decommissioning for a Type 2 Solar Energy System to hire one or more private consultants to assist such Board and its officials in properly fulfilling all of their duties, including but not limited to the permit application process, system construction, revision, and/or alteration, and the remedying of violations throughout the life of the system and decommissioning. Such consultants may include but are not limited to a professional engineer(s), attorney(s), planning consultant(s), environmental monitors, soils experts and/or other specialists. All expenses incurred by the Town and its officials (and through either Board) for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time and starting with the application process and continuing through final decommissioning of the system, any of said Boards may require that Applicant furnish a deposit in advance in an amount that the Town in its sole discretion deems sufficient to be used for reimbursement of such expenses. The application submission shall be accompanied by the initial sum of Fifty Thousand Dollars ($50,000.00) (see section 1404A above). Any such deposit shall be held in a non-interest-bearing account and shall be used to reimburse the Town for expenses that have been incurred or may reasonably be expected to be incurred as a result of such consultants. Should such deposit be depleted, either Board may require that additional monies be deposited with the Town by a date certain. A reviewing Board may suspend indefinitely the review of any application or the continued operation of the system as a result of the failure to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town and/or New York State law, rule or regulation relating to the timing of issuance of decisions for such applications or the continued operation of a system. This obligation is the joint and several duties of the original landowners, system owner(s) and operator(s), leaseholders and all of their agents, successors and assigns.

7. Emergency Training. All emergency training for all local village, town and county emergency

personnel including fire, law enforcement and ambulance) to properly deal with all emergencies peculiar to an energy site shall be paid for by the then current solar energy system owner and operator. All terms in subparagraph 6 directly above concerning advance deposit, payment, and suspension upon failure to pay shall apply.

8. The NYS Agriculture and Markets Guidelines for Solar Energy Projects Construction Mitigation for Agricultural Lands then in effect shall be followed, except to the extent any requirements herein are stricter. The terms of such guidelines are incorporated by reference hereat and made a part of this local law. The current internet address to said state guidelines is http://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf

§1405. General Regulations. The placement, construction, and major modification of all Solar Energy Systems within the boundaries of the Town of North Dansville shall be permitted only as follows:

A. Any inconsistent provisions of this zoning law or any other local laws, ordinances, rules or regulations of the Town of North Danville which may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.

B. All Solar Energy Systems existing on the effective date of this Article shall be "grandfathered" and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction or additions or modifications other than routine maintenance on pre-existing systems shall comply with all of the requirements of this Article.

C. All new Solar Energy Systems and all additions and modifications to any pre-existing Solar Energy System shall be designed, erected, and installed in accordance with all applicable laws, codes, rules, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and all local laws, codes, rules and regulations of the Town of North Dansville.

D. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this Article.

E. No Solar Panels or other Solar Energy Equipment used in any Solar Energy System shall utilize or contain any amount of per- and polyfluoroalkyl substances (PFAS) including PFOA, PFOS, and GenX chemicals, or any other substances then proscribed by state or federal agencies.

F. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information.

G. For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, the current owner and operator and their phone numbers, disconnect and other emergency shutoff Information, and each of their 24-hour immediate emergency contact information. It shall all be clearly displayed on a light reflective surface.

H. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

I. Knox Boxes. All Type 2 facilities shall have a secured Knox Box at the front gate containing keys to all entry gates to the facility and to all secured structures therein. An entry key to the Knox Box

shall be always supplied to the ZEO and to the local Fire Chief, both of whom shall record all their entries to the facility at the time of each entry.

J. The Town has opted out of the pilot program pursuant to Real Property Tax Law section 487. The entire solar energy system shall be taxed at full valuation as determined by the Town Assessor. However, if both sides are agreeable, a PILOT agreement can still be entered into by the Town and owner.

§1406. Abandonment and Decommissioning.

A. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the ZEO within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative or abandoned and thus discontinued after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or 90 days without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.

B. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System can be made by the ZEO, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice of such determination and the facts on which it is based by personal service, email, or certified mail. At the earlier of the 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.

C. Decommissioning. All Solar Energy Systems shall be decommissioned, immediately where the Special Use Permit or Site Plan approval has been revoked by the ZBA or the PBD, or if the Solar Energy System has been deemed by the ZEO to be inoperative or abandoned for a period of more than 90 days (which time can be extended in the sound discretion of the Town Board), with all solar energy material and equipment, piers and foundations, and all other man-made material related thereto removed and the parcel(s) of land and its soil restored to their pre-development condition pursuant to the Decommissioning Agreement. The responsibility to decommission and all such costs related thereto shall be the joint and several responsibilities of the initial permit holder, owner of the solar energy system and operator thereof, the owner of the real property upon which the Solar Energy System is located, all leaseholders, and all of their successors and assigns. If the past or present permit holder, owner, or operator and/or owner of the real property upon which the Solar Energy System is located does not decommission said Solar Energy System as required by the Decommissioning Agreement, the Town Board may complete removal and decommissioning as set forth in the Decommissioning Agreement. To the extent the Town's costs to fully decommission the system are not paid by said decommissioning surety bond, the Town can seek redress against all responsible parties for the balance thereof and can also levy said balance onto the real property tax bill associated with the property upon which the Solar Energy System was located. Decommissioning of all Commercial Solar Energy Systems shall be in accordance with the Decommissioning Agreement required by §1404 above.

§1407. Suspensions and Revocation.

If the Applicant or its successor in title/ownership of any Type 2 Solar Energy System violates any of the conditions of its Special Use Permit, Site Plan approval or violates any portion of this local law or any other local, state, or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the ZBA and PBD hold a joint hearing on the alleged violations, at which the Applicant or its successor in title/ownership shall have an opportunity to be heard and present evidence in defense of the allegations of such violations. The ZBA shall have the right to suspend the special use permit and operation of a Type 2 system as set forth above in this article.

The revocation process shall be as follows:

A. The ZEO shall serve on the current solar energy system owner and all other parties responsible a written Code Compliance Order stating:

1. The alleged facts constituting each violation, referencing each section of this law and/or the special use or other requirement permit that is violated.

2. The corrections that must be made to cure each violation alleged.

3. The time by which each correction must be made.

4. A warning that failure to comply can result in revocation of the Special Use Permit, the decommissioning of the system and subject all violators to all fines and penalties imposed by this and any other laws.

5. The right of the owner and/or other parties responsible to appeal said order to the ZBA. However, said appeal does not suspend the time to comply with said order, which time shall continue.

B. If full compliance is not made, a due process hearing shall be held before the ZBA.

1. The hearing before said ZBA shall occur at such time and place as the ZBA shall schedule but no later than twenty (20) days after corrections were ordered to be completed.

2. At least ten (10) days before such hearing, the violators must serve on the ZBA and the Town Attorney a written answer to each alleged violation setting forth all their defenses and mitigating factors if any. Failure to do so shall constitute a default allowing the ZBA to make its decision without a hearing.

3. At the hearing, the Town shall have the burden of proof and shall first establish a prima facie case.

4. The violators shall have the right to attend and present all relevant evidence on their behalf.

5. Within fourteen (14) days after the hearing is completed, the ZBA shall render a written decision and order specifying its factual findings, its determinations, and if the violation(s) and failure to timely comply with said order are found, the remedies imposed against each violator and/or other party responsible. If revocation is determined, the requirements of the decommissioning agreement shall become effective immediately.

§1408. Effective Date

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

APPENDIX 1

APPLICATION FOR TYPE 1 SOLAR

NO. _____

VILLAGE OF DANSVILLE
TOWN OF NORTH DANSVILLE
Livingston County, New York

APPLICATION FOR BUILDING and / or ZONING PERMIT

Residential

APPLICATION DATE:_____

INSTRUCTIONS:

A. The **Approval Process requires (2) weeks** on average. The work covered by this application shall not be commenced BEFORE the issuance of a Building Permit.

B. **COMPLETED** copy of this application submitted to the Code Enforcement Office. Any application which is missing information will be denied.

C. **COMPLETE** set of **STAMPED Architectural Drawings,** for any **Construction / Addition / Renovation / Rehab. with a cost of $20,000 or more. A Plot Plan** must be included with the application.

D. Upon approval of this application, the Code Enforcement Officer will issue a Building Permit to the applicant. The permit shall be kept on the premises for the duration of the work. **Building Permits are good for a period of ONE (1) YEAR from issue.**

E. The Building Inspector shall have the right to enter upon the premises for the purpose of inspection of the construction covered by this application at any time during the construction period without notice.

F. NO Building shall be occupied or used in whole or in part for any purpose until a CERTIFICATE OF OCCUPANCY has been granted.

APPLICATION IS HEREBY MADE to the Code Enforcement Office for the issuance of a Building Permit, pursuant to the Zoning Ordinance of the Town/Village of Dansville for the construction as herein described. The applicant agrees to comply with all applicable laws, ordinances and regulations.

1. APPLICANT / CONTRACTOR
   Name _____ Tel. No. _____
   Address _____

**** A COPY OF YOUR LIABILITY & WORKER'S COMPENSATION INSURANCE CERTIFICATION or EXEMPTION FORM MUST ACCOMPANY THIS FORM ****

2. PROPERTY OWNER
   Name _____ Tel. No. _____
   Address _____

3. LOCATION OF LAND FOR PROPOSED WORK:
   Address _____
   Tax Map No. _____
   Size & Area of the lot _____ ft. by _____ ft. = _____ sq. ft.
   Zone Dist. _____ Class Use _____ in which premises are situated

4. PRESENT USE IS _____
   PROPOSED CHANGE/USE or OCCUPANCY _____

5. APPLYING FOR: _____ New Structure _____ Addition _____ Alteration / Porch (covered) / Deck
   _____ New Roof / Repair _____ Stove (any type) _____ Other (explain)
   _____ Sign / Temporary _____ Sign / Permanent
   _____ If sign permit, **include over all dimensions and letter size.** Sign permit fee $_____

6. NATURE OF WORK: _____

7. DIMENSIONS OF: New Structure _____ Area _____ sq. ft.

Additions _____ Area _____ sq. ft.

Alterations / Porch (covered) / Deck _____ Area _____ sq. ft.

New Roof / Repair _____ Area _____ # of sq.

Other _____ Area _____ # of sq.

8. ESTIMATED COST OF PROJECT: $_____

9. Will the proposed construction require a variance from the Local Zoning Ordinance or Regulations ? _____

If yes, give details _____

Type of Variance:_____ ZBA Application Date: _____ Planning Date: _____

10. **ALL COMMERCIAL Permits require Planning Board Review – review date** _____

11. E911: _____

Does this parcel require a new address ( ) YES ( ) NO

12. The PLOT diagram shown on page 3 of this application or on separate drawings shall show:
    - Location of any / all existing buildings on the lot
    - Location of proposed construction on the lot with setbacks of Front, Side and Rear clearly shown
    - Property lines and street names

13. The following criteria shall be readily available and identifiable on the submitted prints/plans:

Building Type:	SQFt. Habitable Space:	Sq.Ft NonHabitable Space:	Design Criteria :
Exits & Egresses:	Stairs:	Light/Ventilation:	Window/Door Schedules:
Smoke Detection	Separations:	Rafter Spans:	Truss Drawings:
Foundation/Footing:	Insulation:	Mechanical Req:	Plumbing Req:
Electrical Req:	Heating Systems:	Roof Construction/Covering:	Garages/decks

Solid Fuel burning Appliances: Compliance w/NYS Energy Code Compliance with Local Zoning Ordinances

I, (print)_____ **HEREBY CERTIFIES** THAT HE/SHE IS THE applicant and / or owner named above; and that all statements contained in this application are true to the best of his/her knowledge and belief, and that the work will be performed in the manner set forth in this application and in the plans and specifications filed therewith.

CONTRACTOR / OWNER CERTIFICATION: I hereby certify that all items in the Fence Regulations will be enforced.

CONTRACTOR CERTIFICATION: I hereby certify that all items in the Sign Ordinance will be enforced.

_____
Signature of Applicant / Contractor

_____
Signature of Property Owner

APPROVED

Application is hereby made to the Zoning Board of Appeals and/or Planning Department for a Variance/Special Use Permit for the use of the premises as described above for which an application for a permit has been denied based upon the following information:

_____
Code Enforcement Officer

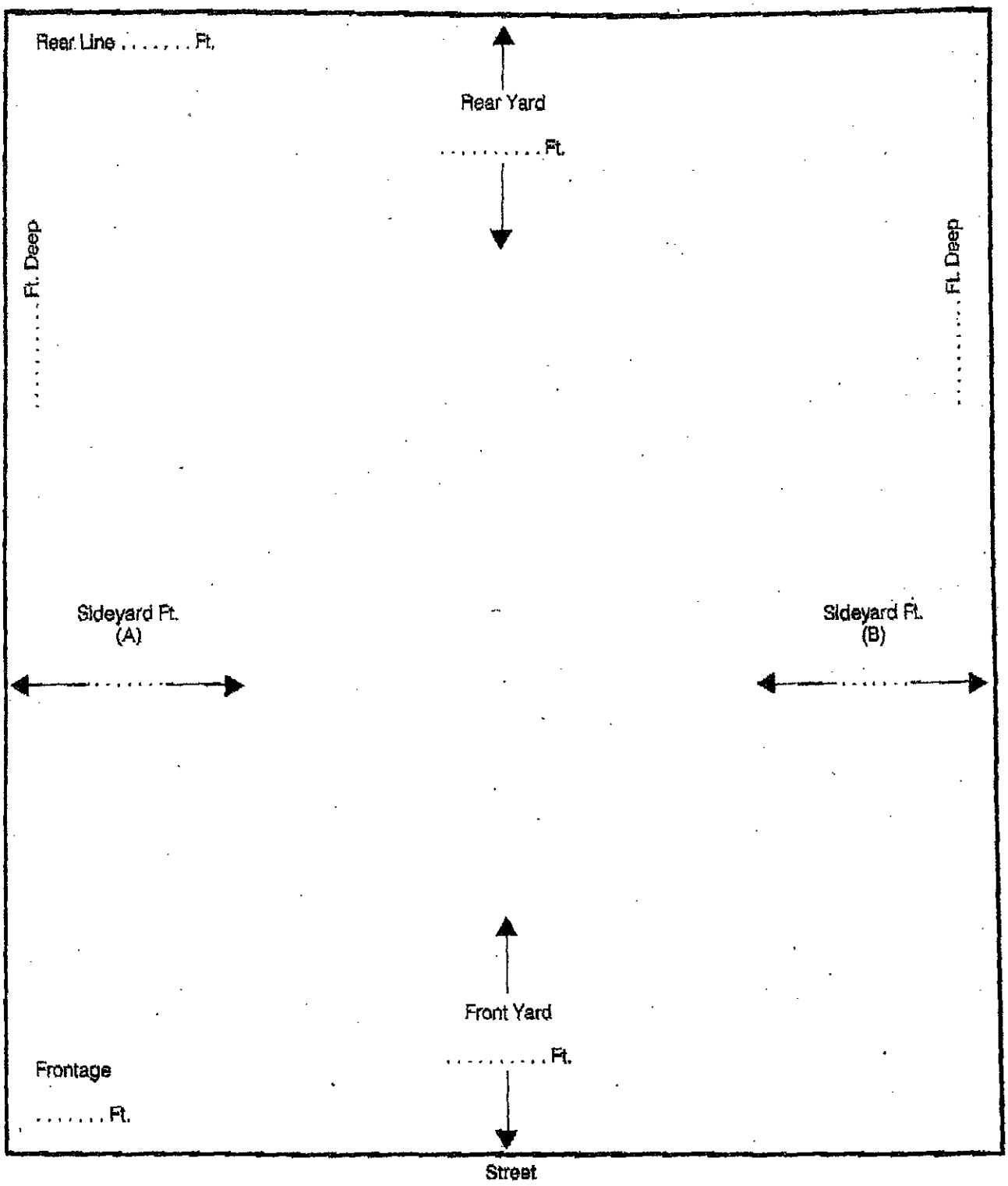
DISAPPROVED _____

Office Use Only:

FEE(S): Building$_____ Planning:$_____ ZBA Varience:$_____ **TOTAL:$**_____

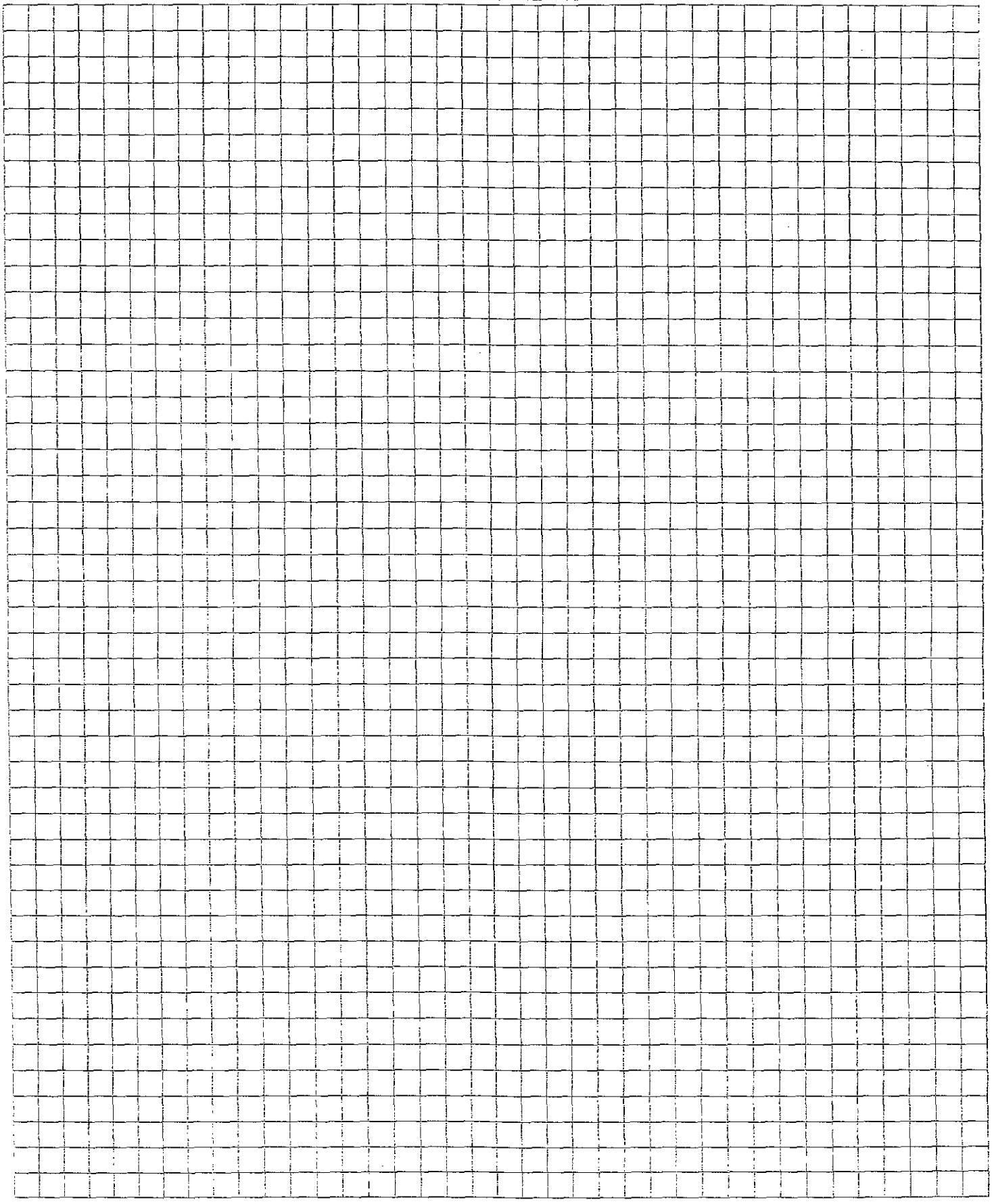
PLOT DIAGRAM/SURVEY MAP

Locate clearly and distinctly all buildings, whether existing or proposed, and indicate all setback dimensions from property lines. Give identifying information or deed description, show all easements and street names, adjacent property owner names. Indicate whether an interior or a corner lot. Show any water bodies or creeks, shorelines.



* 1/4" = 1 foot

PLOT PLAN and / or DISCRIPTION of WORK



Petition to Board of Appeals

To: The Board of Appeals, Town/Village of Dansville:

Dated:_____ 20_____

Signed:_____
Petitioner

Action by the Board of Appeals of the Town/Village of Dansville on the above stated matter:

Dated: _____ 20____

Attest: _____
Secretary, Board of Appeals

_____ Chairman

_____ Member

_____ Member

_____ Member

_____ Member