

Adopted 6/11/15

Town of Duaneburg Zoning Ordinance

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SECTION 1

TITLE AND PURPOSE OF ORDINANCE

1.1 Title

This ordinance shall be known as "The Town of Duanesburg, N. Y. Zoning Ordinance".

1.2 Purpose.

This ordinance is enacted in order to promote the health, safety, morals and general welfare of the Town of Duanesburg by dividing the Town into Districts and by regulating and restricting the location, construction and use of buildings and structures, and the use of land in these Districts. It is hereby declared to be the specific intent and purpose of this ordinance to foster appropriate growth and development and to preserve wherever possible the natural beauty and ecology of forests, streams, watercourses and bodies of water and the rural character of the Town. This ordinance shall be construed, interpreted and applied in accordance with the fulfillment of these purposes and in compliance with the latest approved version of the Comprehensive Plan adopted July 13, 2006 Resolution 122-06.

The Town Board of the Town of Duanesburg, County of Schenectady, under authority of Town Law of the State of New York hereby ordains, enacts, and publishes as follows:

1.3 Ordinance.

As used herein, the term "Ordinance" shall mean this Ordinance and any amendment hereto.

SECTION 2

ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

2.1 The Town is divided into the following districts:

1) **Higher Density Residential (R-1)**

Areas intended for smaller lots located within the boundaries of any sewer district, but outside the boundaries of any Hamlet (H) or Lake (L-1) zoning district within that sewer district. (See Section 6)

2) **Lake (L-1).**

Properties abutting and in the vicinity of Mariaville Lake. (See Section 7.1)

3) **Lake (L-2).**

Properties surrounding Duane Lake. (See Section 7.2)

4) **Agricultural and Residential (R-2)**

Areas not likely to be served by public water and sewerage, generally consisting of larger residential lots. (See Section 8)

5) **Hamlet (H)**

Areas intended for residential/retail business development, in character with the historic nature of the hamlet, which may be limited by availability of water and sewerage. (See Section 9)

6) **Mobile Home Park District (MP)**

Areas intended for housing alternatives to meet the diverse needs of the Town's residents, designed and maintained so as not to adversely affect the character of the neighborhood or the values of nearby properties. (See Section 10)

7) **Commercial (C-1)**

Areas intended for commercial development, which can also provide the opportunity for development of off- highway centers allowing for shared common entrances and exits. (See Section 11)

8) **Manufacturing & Light Industrial (C-2)**

Areas intended for manufacturing and light industrial development while protecting nearby properties. (See Section 12)

2.2 ZONING MAP

The Districts are bounded and defined as shown on a map entitled "Town of Duanesburg Zoning Map", adopted with this Ordinance with all explanatory matter, and shall be kept on file in the office of the Town Clerk and available for public inspection.

2.3 INTERPRETATION OF DISTRICT BOUNDARIES

The District boundaries shall be interpreted as follows:

- 1) Where the district boundaries are shown as approximately following a lot line, such lot line shall be construed to be said boundaries.
- 2) Where the district boundaries are shown as approximately following the limit of the street, highway, or railroad right-of-way, such limit shall be construed to be said boundaries.
- 3) Where the district boundaries are shown to be approximately parallel to the street, highway, or railroad right-of-way, such boundaries shall be construed to be parallel to said street, highway or railroad right of way with distances shown on the Zoning Map being perpendicular distances therefrom.
- 4) Where the district boundaries are shown to follow a waterway, such boundaries shall be deemed to be at the centerline of the waterway, or the limit of the jurisdiction of the Town if this limit is before the centerline.
- 5) In other cases, such boundaries shall be determined by the Code Enforcement Officer by use of the scale shown on the Zoning Map. (See Section 14.5.1)

SECTION 3

APPLICATION OF ORDINANCE REGULATIONS AND DEFINITIONS

3.1 WORD USAGE

The present tense shall include the "future". The singular shall include the "plural", and the plural the "singular". The word "shall" is always mandatory. The term "person" includes individuals, and any type of legal entity. The term "lot" includes the word "plot" or "parcel". The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

3.2 CONFORMITY WITH REGULATION REQUIRED

No building, structure, or land shall hereafter be used, and no building or structure or part thereof shall be erected, moved or altered, unless for a use expressly permitted by and in conformity with the regulations herein specified to the district in which it is located, except as hereinafter provided.

3.3 BUILDING PERMIT REQUIRED

No building or structure shall be excavated for, erected, added to, or structurally altered until a building permit has been issued, as specified in Section 14.3, signifying that the building or structure and proposed use thereof complies with the provisions of the ordinance. Building Permits shall also be required for other work as set forth in Section 14.3.

3.4 CERTIFICATE OF OCCUPANCY OR COMPLIANCE

No building or structure that was erected or added to or structurally altered in accordance with an issued Building Permit shall be occupied without the issuance of a Certificate of Occupancy or Certificate of Compliance by the Uniform Code Enforcement Officer, as specified in Section 14.4.

3.5 DEFINITIONS

The following definitions shall apply to this Ordinance:

3.5.1 Abandon. To voluntarily cease, for a period in excess of one (1) year, the use of land, buildings or structures which have been non-conforming.

3.5.2 Accessory Structure or Use.

A structure or use that meets any one of the following three requirements:

1. (a) is subordinate to and serves a principal building or a principal use; and
- (b) contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or principal use served; and
- (c) is located on the same lot as the principal structure or principal use served; or
2. a Home Occupation; or
3. a Temporary Transportable Storage Unit.

- 3.5.3 Adult Care Facility.** A family type home for adults, a shelter for adults, a residence for adults or an adult home, which provides temporary or long term residential care and services to adults who, though not requiring continual medical or nursing care, are by reason of physical or other limitations associated with age, physical or mental disabilities or other factors unable or substantially unable to live independently.
- 3.5.4 Addition.** Any structure which is built or placed so as to be attached to a building and have a common roof or wall with the building to which it is attached.
- 3.5.5 Agriculture.** The use of land for agricultural purposes, including horticulture, floriculture, viticulture, farming, dairying, pasturage, animal and poultry husbandry, and the necessary accessory uses for packing, treating, storing or sale of produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
- 3.5.6 Agricultural Data Statement.** A statement identifying farm operations within an Agricultural District located within five hundred feet from the boundary of property upon which a Subdivision, Special Use, Site Plan, or Variance is proposed.
- 3.5.7 Airport/Landing Field.** An area of land designed, set aside and used for the landing and taking off of aircraft.
- 3.5.8 Ambulance Building.** A building designed and used for public or private ambulance service such as transportation of patients, garaging ambulances, housing emergency service apparatus, and temporary occupancy of ambulance personnel.
- 3.5.9 Amusement Park.** A facility open to the public which may contain rides, food concessions, waterslides, restaurants, swimming pools and/or games of skill.
- 3.5.10 Animal Hospital or Veterinary Hospital.** A place where pets or animals are given medical or surgical treatment and are cared for during the time of such treatment, with boarding permitted as incidental to such hospital use.
- 3.5.11 Antique Shop.** A retail store specializing in the selling of antiques or second hand merchandise, such as furniture or jewelry.
- 3.5.12 Apartment.** A portion of a building used as a Dwelling Unit.
- 3.5.13 Apartment House.** (See Dwelling-Multi-Family section 3.5.61).
- 3.5.14 Area, Building.** The total of the area taken on a horizontal plane at the main grade level, plus the vertically projected area of any building overhangs, exclusive of the eaves. The area includes the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.
- 3.5.15 Area, Land.** The area of a lot exclusive of street and other public open space.

- 3.5.16 Area, Total Floor.** The sum of the gross horizontal area of habitable space of the principal building on the lot, excluding the area of unenclosed or unheated porches and patios, measured between exterior faces or walls.
- 3.5.17 Bank.** An institution for receiving, lending, exchanging, and safeguarding money, and transacting other financial business.
- 3.5.18 Bar.** An establishment operated primarily for the on premises sale and consumption of alcoholic beverages, which may include food service, and also commonly referred to as barroom, tavern, night club or lounge.
- 3.5.19 Barber Shop.** An establishment to cut and dress the hair of its customers.
- 3.5.20 Basement.** That space of a Building that is partly below grade which has more than one-half (50%) of its average height, measured from floor to ceiling, above the established curb level or finished grade of the ground adjoining the Building. A Basement shall be considered in determining the permissible number of stories and may be used as a Dwelling. (See Cellar, section 3.5.37).
- 3.5.21 Beauty Shop.** An establishment for hairdressing, manicuring, or retail sale and application of cosmetic products.
- 3.5.22 Bed and Breakfast.** An owner-occupied dwelling used for providing overnight accommodations and meals to its overnight guests, and containing not more than (5) bedrooms for guests.
- 3.5.23 Billboard.** Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.
- 3.5.24 Bowling Alley.** A building or enclosed area containing a number of lanes or alleys, for the game of tenpins or similar type game.
- 3.5.25 Building.** A structure wholly or partially enclosed within exterior or party walls and a roof, designed to shelter persons, animals or property.
- 3.5.26 Building, Accessory.** (See Accessory Structure or Use, Section 3.5.2).
- 3.5.27 Building, Alteration of.** A change or rearrangement in the structural parts or in the exit facilities of a building or structure or in enlargement or reduction, whether by changing on a side or in height, or the moving from one location or position to another position, and any change or rearrangement which requires inspection under New York State Code.
- 3.5.28 Building Design.** Guidelines which offer an organized set of development standards to help guide building, renovation, and site development.

- 3.5.29 Building, Height.** The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof.
- 3.5.30 Building Inspector.** Town of Duanesburg official who reviews drawings and specifications of planned projects and visits building sites to check drainage, elevation, building structure, foundations, floor framing, wall framing, roof, ceiling, chimneys and other matters for compliance with laws, regulations and codes. (See Uniform Code Enforcement Officer, Section 14.2).
- 3.5.31 Building Line.** The base line of a vertical plane, parallel to the lot line, and extending from one lot line to another. The:
- (a) Front Building Line, is parallel to the street line and is determined by the 911 address;
 - (b) Rear Building Line, is parallel to the street line, but is behind the Front Building Line;
 - (c) Side Building Line, are the Building Lines other than the Front or Rear Building Line.
- 3.5.32 Building Permit.** A permit issued by the Uniform Code Enforcement Officer for any work which must conform to the Uniform Code and/or the Energy Code, and any other applicable Code in effect at that time, including, but not limited to construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel heating appliance, chimney or flue in any Dwelling Unit. (See Section 14.3)
- 3.5.33 Building, Principal.** A building or structure in which is conducted the principal use of the lot on which it is situated. .
- 3.5.34 Camp.** A structure built for occasional, seasonal, or recreational shelter.
- 3.5.35 Campground.** A parcel of land improved with facilities designed and intended for the temporary accommodations of travel trailers, tents, recreational vehicles and campers.
- 3.5.36 Carport.** A structure having a driveway running to it, under it, or through it. A carport shall not be considered to be an open porch.
- 3.5.37 Cellar.** The space of a Building that is partly below grade which has more than one-half (50%) of its average height, measured from floor to ceiling, below the established curb level or finished grade of the ground adjoining the Building. A Cellar shall not be considered in determining the permissible number of stories and shall not be used as a Dwelling. (See Basement, Section 3.5.20).
- 3.5.38 Center Line of Street or Road.** A line midway between and parallel to the two street or road property lines or as otherwise defined in the Ordinance.
- 3.5.39 Certificate of Compliance.** A certificate issued by the Uniform Code Enforcement Officer which states that the violation(s) of the Ordinance have been corrected or that the provisions of the Ordinance have been complied with. (See Section 14.4).

- 3.5.40** Certificate of Occupancy. A Certificate issued by the Uniform Code Enforcement Officer which states permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued. (See Section 14.4).
- 3.5.41** Club. An organization catering exclusively to members and their guests for health, recreational, athletic or social purposes.
- 3.5.42** Clubhouse. A building to house a club or social organization.
- 3.5.43** Cluster Development. A group of dwellings that meet all requirements for a subdivision in accordance with the applicable laws and ordinances with the exception of the minimum required setbacks and lot sizes. (See Section 13.5)
- 3.5.44** Commercial Cemetery. A tract of land where burial plots are sold and used for burials of the dead.
- 3.5.45** Comprehensive Plan. The Plan adopted by the Town of Duanesburg, as may be amended from time to time as a policy guide to land use decisions which affect the physical development of the Town.
- 3.5.46** Concert Hall. A place with fixed seating used for gatherings or entertainment in which concerts are given. (See Theater, Section 3.5.142).
- 3.5.47** Condominium. An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a building, such as an apartment.
- 3.5.48** Convenience Store. A small-sized retail store which provides a limited number of grocery products as well as other consumable products and drugstore items.
- 3.5.49** County. Schenectady County.
- 3.5.50** Craft Shop. A shop that sells materials and tools used for making objects by hand, or the objects themselves.
- 3.5.51** Customary Agricultural Uses. Animal husbandry and/or the raising and/or sales of Agricultural products. (See Agriculture, Section 3.5.5).
- 3.5.52** Day Care Center. A facility providing day care to three or more children for more than three hours per day outside a family home. The term "Day Care Center" includes nursery school. (See Family Day Care Home, Section 3.5.68).
- 3.5.53** Developer. Any landowner or agent, who, with landowner's permission, files an application for Building Permit, Special Use, Subdivision, Variance, Home Occupation or a Zone Change.

- 3.5.54 Development.** The utilization of a lot or tract of land for the planned construction of homes, businesses, or other approved structures or uses.
- 3.5.55 District.** A portion of the territory of the town within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.
- 3.5.56 Drive-in Establishment.** A place of business being operated for the sale and purchase of retail food and other goods, services, or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated without entering the premises.
- 3.5.57 Driveway and Passage Way.** A private access route which directly serves a parking area.
- 3.5.58 Dwelling.** A building with living, sleeping, cooking, eating and sanitary facilities used primarily for human habitation. The word "Dwelling" shall not include motels, hotels, or other structures designed for transient residence.
- 3.5.59 Dwelling, Single-Family.** A building containing one (1) Dwelling Unit.
- 3.5.60 Dwelling, Two-Family.** A building or buildings containing two (2) Dwelling Units.
- 3.5.61 Dwelling, Multi-Family.** A building or buildings containing three (3) or more Dwelling Units and occupied or designed for occupancy by three (3) or more families living independently of each other.
- 3.5.62 Dwelling, Row or Town House.** A building containing Dwelling Units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings.
- 3.5.63 Dwelling Unit.** Any Dwelling or portion thereof, used or intended to be used by one family, and providing, living, sleeping, cooking, eating, and sanitary facilities.
- 3.5.64 Enactment.** The date of the enactment of, or amendment to, this Ordinance.
- 3.5.65 Equine Facility.** Any commercial establishment where horses are kept for riding, driving, or stabling. (see Stable, Section 3.5.136)
- 3.5.66 Environmental Assessment Form.** A form prescribed by New York State Environmental Conservation Law used to review and assist in determining any environmental significances of a proposed project or action.
- 3.5.67 Family.** A household constituting a single housekeeping unit occupied by one or more persons.

- 3.5.68 Family Day Care Home.** A family occupied dwelling in which day care is provided for up to six children for more than three hours per day and authorized by the NYS Department of Social Services in accordance with Section 390 of the Social Services Law, as may be amended from time to time.
- 3.5.69 Fence.** Any structure or device, regardless of composition, which encloses or divides a parcel of land or serves as a barrier, other than a building or growing plants or trees.
- 3.5.70 Finished Grade.** The average elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure.
- 3.5.71 Fire House.** A station housing fire fighting apparatus and/or fire fighting personnel.
- 3.5.72 Flood Plain.** Land designated as a Flood Plain by the Flood Insurance Rate Map.
- 3.5.73 Funeral Home.** An establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.
- 3.5.74 Garage, Private.** An enclosed space not available to the public for the storage of one or more motor vehicles.
- 3.5.75 Garage, Public.** Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing, adjusting or equipping of automobiles or other motor vehicles.
- 3.5.76 Gasoline Station-Motor Vehicle Service Station.** Any area of land including structures thereon that is used either for the sale of gasoline, or any other motor vehicle fuel, together with oil and other lubricating substances, including any sale of motor vehicle accessories, or that is used and is available to the public for storage, repair, rental, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
- 3.5.77 Golf Course.** A tract of land laid out for the game of golf.
- 3.5.78 Group Family Day Care Home.** A facility in which day care is provided for up to ten children, including not more than four children under two years of age, for more than three hours per day in a family home occupied as a residence, and authorized by the NYS Department of Social Services in accordance with section 390 of the Social Services law, as amended from time to time.
- 3.5.79 Health Care Facility.** A facility providing health related service as licensed by the State of New York.

- 3.5.80 Health Club.** A club that offers its members facilities for exercise and physical conditioning.
- 3.5.81 Home Occupation.** An occupation or profession which is incidental and secondary to the residential use of the Dwelling and is otherwise in compliance with the Ordinance.
- 3.5.82 Hospital.** An establishment for temporary occupation by sick or injured humans for the purpose of medical diagnosis and treatment.
- 3.5.83 Hotel.** A building or any part thereof, that contains living and sleeping accommodations for transient occupancy and provides off-street parking facilities, including a motel, travel lodge or similar use.
- 3.5.84 House Trailer.** Manufactured housing built on a permanently attached metal frame. A mobile home shall be construed to remain a mobile home, subject to all Town regulations applying thereto whether or not the wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A travel trailer or other form of recreational vehicle, shall not be construed as a mobile home.
- 3.5.85 Improvement District.** A district established to provide special services or functions to taxpayers in specific areas of the Town. Types of Improvement Districts include, but are not limited to, Sewer, Drainage, Water, Park, Lighting and Aquatic Plant Control Districts.
- 3.5.86 Industrial, Light.** The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products.
- 3.5.87 Junk Yard.** Land, or part thereof, used for the collection, storage or sale of waste paper, rags, unregistered motor vehicles or parts thereof, scrap metal, scrap building materials, household appliances or discarded materials in excess of three (3) cubic yards. (Junk yards are prohibited by Local Law dated 6/11/53.) (See Salvage Yard, Section 3.5.126).
- 3.5.88 Kennel.** Any premises on which five (5) or more dogs or cats are maintained, boarded, bred or cared for, in return for remuneration or a fee, or are kept for the purpose of sale.
- 3.5.89 Lake Access.** The right to enter or use a lake.
- 3.5.90 Landfill.** Land used for disposing of waste material in accordance with applicable NYS Department of Environmental Conservation Regulations. (Landfills prohibited by Local Law #1 dated June 8, 1989)
- 3.5.91 Laundry.** A commercial or retail facility where clothes, linens or similar items can be washed, dried, ironed, or dry-cleaned.
- 3.5.92 Library.** A Public Building containing books, periodicals, and other materials for reading,

borrowing, viewing, listening, study, or reference.

- 3.5.93 Lot** A designated parcel, tract, or area of land established by a plat, or that having its own tax map number, or described in a deed, or otherwise permitted by law.
- A.) **Corner lot-** A lot abutting two (2) or more streets at their intersection.
 - B.) **Flag lot-** A lot which has limited road frontage except for a portion which consists of a narrow corridor of land no less than sixty (60) feet in width which connects the main portion of the lot to the street or highway. Such corridor shall not be considered in any computation of the minimum lot size for that district. The front line as defined for flag lots shall conform to any minimum front line requirements for that district. The width of the corridor may be used to calculate the length of the front line if said corridor intersects the front line.
 - C.) **Lot coverage-** The percentage of the lot or area covered by the building area including accessory buildings.
 - D.) **Lot Depth -** The mean distance between the front and rear lot lines
 - E.) **Lot Lines-** The line dividing one lot from another, or from a street or other public space.
 - F.) **Lot Width-** The distance between side lot lines, measured at the front building line.
 - G.) **Lot of Record-** Any lot which is established as such by plat, survey, record, or deed prior to the date of this Ordinance as shown on the records of the Schenectady County Clerk's Office.
- 3.5.94 Manufactured Housing.** A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development. The term manufactured home shall not include any self-propelled recreational vehicle.
- 3.5.95 Manufacturing.** The making of goods or wares by manual labor and /or by machinery.
- 3.5.96 Mass Gathering.** The gathering or likely or anticipated of gathering, collecting, or congregating of three thousand five hundred (3500) or more people at any time within a 24 hour period. (See Section 14.6.2.1).
- 3.5.97 Mobile Home.** A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific standard. The term mobile home shall not include any self-propelled recreational vehicle. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.
- 3.5.98 Mobile Home Park.** A tract of land, not less than ten (10) contiguous acres, which is used or intended to be used for the location of two or more manufactured or mobile homes to be used for residential dwellings.
- 3.5.99 Modular Home.** A factory-manufactured dwelling unit, conforming to applicable provisions of the Residential Code of New York State and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system whereby the

structure or its components are wholly or in substantial part manufactured in a manufacturing facility, intended or designed for permanent installation, or assembly and permanent installation.

3.5.100 Motel. (See Hotel, Section 3.5.83).

3.5.101 Motor Vehicle Sales. Any place where three or more used motor vehicles in operating condition are offered for sale.

3.5.102 Municipal Building. A building housing a town, village, city, county or other governmental agency.

3.5.103 Municipal Facility. A functional creation, designed, built, installed etc. to serve a specific need affording a convenience or service for a part or whole of a municipality.

3.5.104 Municipal Park. An area of land owned by a municipality usually in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation.

3.5.105 Municipal Playground. An area owned by a municipality used for outdoor play or recreation often containing recreational equipment such as slides and swings.

3.5.106 Museum. A building or place where works of art, scientific specimens, or other objects of permanent value or archived and displayed.

3.5.107 Multiple Use. A single parcel of land, used for more than one purpose.

3.5.108 Natural Production Use. A parcel of land or part thereof used for the purpose of the excavation, extraction, sale or exchange for commercial, industrial or municipal use, of soil, sand, gravel, clay, shale, or other natural deposits or the quarrying of any kind of rock formations or similar uses. (See Section 5.1.4).

3.5.109 Night Club. (See Bar, Section 3.5.18).

3.5.110 Nonconforming Use. The use of a building, structure or land existing at the time of enactment or amendment of this Ordinance and which does not conform to the regulations of the district or zone in which it is situated. (See Section 4).

3.5.111 Nonconforming Building, Structure. An established building or structure, lawful prior to and at the time of the enactment or amendment of this Ordinance which, because of its inherent nature or construction, does not conform with the provisions of this Ordinance for the district in which it is located.

3.5.112 Office Building. A structure, the principal use of which shall be the accommodation of offices for administrative, governmental, public utility, professional or sales activity.

- 3.5.113 Outside Storage of Material.** The unenclosed placement or deposit of natural or man-made objects or materials for future use.
- 3.5.114 Parking Space.** An off-street space available for the parking of one motor vehicle. (See Section 13.2)
- 3.5.115 Performance Standard.** Conditions which may be deemed necessary by the Zoning Board of Appeals and/or Planning Board including, but not limited to, traffic control, noise control, dust control, buffering, and agreements concerning use and maintenance of common areas and shared or common driveways or passageways.
- 3.5.116 Porch-Open.** A porch open on three (3) sides except for wire screening. A porch shall not be considered open if enclosed by either a permanent or detachable glass sash.
- 3.5.117 Post Office.** An office or station of a government postal system where mail is received and sorted from where it is dispatched and distributed, and at which stamps are sold and other services rendered.
- 3.5.118 Principal Use.** The use that is primary and dominant to the lot.
- 3.5.119 Public Utility Use.** A building, structure or lot used for or in connection with the generation, transmission, distribution or regulation of water, gas, electric, telephone or other public utility service. For the purpose of this definition, telecommunications towers or Wind Energy Facilities shall not be considered, or allowed as, a public utility use. (See Telecommunication Facility Law and/or Wind Energy Facilities Law).
- 3.5.120 Recreational Center/Country Club.** An area with provisions for sports, or other social or instructional activities including but not limited to tennis, swimming, cross-country skiing, entertainment and the incidental use of serving food and beverages.
- 3.5.121 Restaurant.** Any structure having as a principal use, the preparation and dispensing of foods and beverages, with or without seating available for on premises dining purposes.
- 3.5.122 Religious Institution.** A facility in which members congregate, for religion, faith, or worship.
- 3.5.123 Retail Business.** A use involving the sale of goods, merchandise and services to the public.
- 3.5.124 Right of Way/ Easement.** That portion of land or property reserved for present or future use by other than the legal fee owner(s) of the property.
- 3.5.125 Roadside Stand.** A stall or booth for the sale of agricultural products.
- 3.5.126 Salvage Yard.** A facility for the dismantling and sale of motor vehicles or machinery or parts therefrom, having a NYS Dismantler License.

- 3.5.127 Sawmill.** A facility in which logs are converted to lumber by running them through one or a series of saws.
- 3.5.128 School, Private.** Any school not operated by a public school district but furnishing a comprehensive curriculum of academic instruction similar to that of a public school.
- 3.5.129 School, Public.** A School operated by a public school district.
- 3.5.130 Septic System.** A system approved by Schenectady County Health Department for on site collection and/ or disposal of sewage and waste water. (See section 14.3).
- 3.5.131 Set Back Line.** The minimum distance from a lot line within which no part of a building shall extend beyond, excluding steps, eaves, cornices and similar fixtures.
- 3.5.132 Sewage Treatment Facility.** A facility to which raw sewage is taken from individual households, places of business or any building having sanitary plumbing, for the purpose of treating said sewage in a manner rendering it safe to the health and welfare of the general population and to the environment.
- 3.5.133 Shopping Center.** A complex of stores, movie theaters, restaurants, and other establishments grouped together and having a common parking area.
- 3.5.134 Sign.** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government agency, or of any civic, charitable, religious, patriotic, fraternal or similar organization. (See Section 13.4).
- 3.5.135 Special Use Permit.** A permit issued by the Planning Board allowing certain uses of property, which uses may be subject to Performance Standards. (See section 14.6.2).
- 3.5.136 Stable.** A structure in which horses are kept for private use, public hire, sale or boarding. (See Equine Facility, Section 3.3.65).
- 3.5.137 Storage Building.** A structure designed as a depository of goods for later use.
- 3.5.138 Storage Facility.** A commercial structure(s) housing goods for a fee.
- 3.5.139 Street.** A public-way for vehicular traffic. (See Street and Road Ordinance).
- 3.5.140 Structure.** A facility which is built or constructed.
- 3.5.141 Swimming Pool.** Any structure intended for swimming or recreational bathing capable of containing water over twenty-four (24) inches deep, including in-ground and above ground swimming pools, hot tubs and spas.

- 3.5.142 Theater.** A building, part of a building or outdoor area for housing dramatic presentations, stage entertainments, or motion picture shows. (See Concert Hall, Section 3.5.46)
- 3.5.143 Temporary Transportable Storage Unit.** A container, storage unit, or other portable non-permanent structure placed on a property for the purpose of temporary storage of personal property.
- 3.5.144 Temporary Use.** A use that is established for a fixed period of time, less than one year, with intent to discontinue such use upon the expiration of such time.
- 3.5.145 Transmission Tower.** (See Telecommunications Facilities Law).
- 3.5.146 Travel Trailer/ RV.** A vehicle equipped for travel or camping providing sleeping accommodations, which may be equipped with holding tanks for water and sewerage and have cooking facilities, sink and shower.
- 3.5.147 Uniform Code Enforcement Officer.** The executive Town official in charge of the Building Department. (See Building Inspector, Section 3.5.30; Section 14.2; and Local Law #7 from the year 2006).
- 3.5.148 Use.** The specific purpose for which land or building is designed, arranged or intended. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.
- 3.5.149 Variance.** A form of Administrative relief that allows property to be used in a way that does not comply with the literal requirements of the Zoning Ordinance. (See New York State Town Law); (See 14.5.2).
- 3.5.150 Warehousing.** A use engaged in storage and wholesale distribution of manufactured products, supplies and equipment but, excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.
- 3.5.151 Wind Facilities.** (See Wind Energy Facilities Law).
- 3.5.152 Yard-Front.** An open space extending across the entire width of the lot between the front wall and the front property line as determined by the 911 address (street or road right-of-way line).
- 3.5.153 Yard-Rear.** An open space extending across the entire width of the lot between the rear wall of the principal or accessory building and the rear line of the lot.
- 3.5.154 Yard-Side.** That portion of the lot between the side wall of the principal or accessory building to the side line of the lot.

SECTION 4

NONCONFORMING USES

4.1 EXISTING USES

Except as hereinafter provided, the lawful use of any building, structure or land not contrary to laws or ordinances heretofore in effect, existing at the time of the enactment of this Ordinance or any amendment hereto may be continued although such use does not conform with the provisions of this Ordinance or amendment.

4.1.1 Reporting for Natural Production Use. Any existing Natural Production Use must be registered with the Building Department within ninety (90) days of enactment of this Ordinance. Such use must be conducted in accordance with all Federal, State, and Local Laws and Regulations that apply to such activity. Copies of all permits and approvals issued for such existing Natural Production Use shall accompany the registration form.

4.2 CHANGES IN BUILDING OR USE

4.2.1 Unsafe Buildings. Any buildings or portion thereof containing a nonconforming use, which has been declared unsafe by any authority having jurisdiction over that structure, must be restored to a safe condition or be demolished.

4.2.2 Restoration. Any building damaged by fire or other causes may be restored or rebuilt for the same nonconforming use within one (1) year, provided the square footage of the building is not increased.

4.2.3 Alterations. A nonconforming building shall not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost one-half the replacement value of the building unless said building is changed to a conforming use. In no event shall more than one (1) alteration be permitted unless said use is changed to a conforming use.

4.2.4 Abandonment. No nonconforming use which shall have ceased or have been abandoned for a period exceeding one year shall be resumed.

4.2.5 Changes. A nonconforming use shall not be changed to another nonconforming use. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use.

4.3 CONSTRUCTION APPROVED PRIOR TO ORDINANCE

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been previously issued and building constructed according to plans approved, prior to the effective date of this Ordinance.

SECTION 5

DISTRICT REGULATIONS IN GENERAL

5.1 USE REGULATIONS

- 5.1.1 Permitted Uses.** Permitted uses of land and buildings in this chapter shall be permitted in the districts indicated under the conditions specified. No building or tract of land shall be devoted to any use other than any uses permitted within the zoning district in which such building or tract of land is located, with the exception of uses lawfully established prior to the effective date of this Amendment subject to the limitations herein provided.
- 5.1.2 Special Uses.** Special uses, as herein listed, may be permitted in the zoning district indicated, subject to the issuance of special use permits and site plan approval. All uses requiring a Special Use Permit also require Site Plan review the Procedure is established in Section 14.6.2.
- 5.1.3 Non-conforming Uses.** See Section 4.
- 5.1.4 Natural Production Uses.** Natural Production Uses may be allowed upon Special Use Permit issued by the Planning Board and, subject to such Performance Standards, conditions and safeguards as deemed necessary by said board.
(May be subject to New York State DEC Mining and/or other regulations.)
- 5.1.5 Temporary Storage of Trailers/Recreational Vehicles.** Nothing in this Ordinance shall prohibit the temporary storing or parking of an unoccupied RV or travel trailer. The temporary parking of an occupied travel trailer on any residential lot is permitted for a period not longer than 90 days in any 12 consecutive months.
- 5.1.6 Home Occupations.** Traditional home occupations are permitted in all zoning districts, but subject to site plan review by the Zoning Board of Appeals. A Home Occupation Business Permit may be authorized by the Zoning Board of Appeals after said review. If approved, a traditional Home Occupation Permit is issued by the Uniform Code Enforcement Officer.

5.2 ACCESSORY BUILDING AND USES

- 5.2.1 Permitted Accessory Uses in Residential District.** (Residential districts shall include R-1, R-2, H, L-1, L-2 and MP only.)

Accessory Uses in residential districts shall be limited to the following:

- 1.) Private garages, swimming pools, tennis courts and other recreation facilities for the use of residents, not operated for gain, which shall not create noise, dust, vibration, odor, glare, fumes, or electrical interference's detectable by the senses of a normal person or generally accepted measuring procedures on surrounding properties.
- 2) Accessory parking and loading.
- 3) Buildings or structures accessory to permitted agricultural uses.
- 4) Buildings for lawn care or maintenance of residential property.
- 5) Buildings or structures designed to shelter school children awaiting school bus pickup.
- 6) Home gardening and non-commercial agriculture.
- 7) Home occupations. (Subject to site plan review by the Zoning Board of Appeals). (See 14.5.4)
- 8) Temporary Transportable Storage Unit not to exceed 90 days.

5.2.2 Business and Industrial Accessory Uses. Accessory parking and loading and accessory buildings or structures incidental to the principal use may be permitted in the business and industrial districts subject to Site Plan Review and within setbacks.

5.3 LOT REQUIREMENTS

5.3.1 Lot Size in General. Lot size requirements shall be as specified under each zoning district. No building or structure shall be constructed or converted so as to conflict with the lot size requirement of the district in which such building or structure is located.

5.3.2 Lot Coverage. Lot coverage shall not exceed the maximum specified in this Ordinance.

5.5 YARD REQUIREMENTS

5.5.1 Yard Requirements in General. Yard requirements shall be as set forth under each zoning district and use. Front, rear, and side yards shall be provided in accordance with the requirements of the principal building and accessory buildings.

5.6 SIGN REQUIREMENTS (See Section 13.4).

5.6.1 Signs in all Districts. Signs shall be considered to be accessory to the principal use of the premises, and shall pertain only to activities or products available on the premises.

5.6.2 Pre-existing Nonconforming Signs. Nonconforming signs that existed prior to the adoption of this Ordinance or any amendments hereto may not be altered or relocated except in conformance with this Ordinance. Any change in the content of a nonconforming sign, including names, words, logos or similar information shall constitute an alteration requiring conformance with this section.

5.7 FENCES

- 5.7.1 Fences.** Privacy fences shall not exceed six (6) feet in height and be of a material compatible with the general surroundings with the finished side out. (See section 13.3.1)

SECTION 6

HIGHER DENSITY RESIDENTIAL (R-1)

6.1 PURPOSE: This district permits smaller lots and more compact development when serviced and within the boundaries of any sewer district, but outside the boundaries of any Hamlet (H), Lake (L-1) or (L-2) zoning district.

6.2 PERMITTED USES

- 1) Bed and Breakfast
- 2) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 3) Family Day Care Home
- 4) Group Family Day Care Home
- 5) Public Utility Use
- 6) Roadsides Stand

6.3 USES REQUIRING SITE PLAN APPROVAL

- 1) Ambulance Building
- 2) Antique Shop
- 3) Bank
- 4) Cluster Development
- 5) Commercial Cemetery
- 6) Craft Shop
- 7) Fire House
- 8) Home Occupation (Zoning Board of Appeals)
- 9) Library
- 10) Municipal Building
- 11) Municipal Facility
- 12) Municipal Park
- 13) Municipal Playground
- 14) Museum
- 15) Office Building, for one business occupant
- 16) Post Office
- 17) Religious Institution

6.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Adult Care Facility
- 2) Animal Hospital or Veterinary Hospital
- 3) Dwelling, Multi-Family connected to a Sewage Treatment Facility
- 4) Dwelling, Two-Family

- 5) Garage, Private
- 6) Office Buildings for more than one business occupant
- 7) Private School
- 8) Wind Facility

6.5 MINIMUM LOT SIZES

- 1) Minimum Land Area shall be 43,560 square feet
- 2) Minimum Lot Width shall be 175 feet
- 3) Minimum Lot Depth shall be 200 feet
- 4) Maximum Lot Coverage shall be 30%

6.6 MINIMUM BUILDING SETBACK DIMENSIONS

- 1) Minimum Front Setback shall be 40 feet from the Front Building Line
- 2) Minimum Side Setback shall be 40 feet from the Side Building Line
- 3) Minimum Side Setback on corner lot shall be 40 feet from the Side Building Line
- 4) Minimum Rear Setback shall be 40 feet from the rear Building Line

6.7 MAXIMUM BUILDING HEIGHTS

- 1) Maximum building heights shall be 2 1/2 stories not exceeding 35 feet

6.8 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

SECTION 7

LAKE DISTRICT (L-1) (Mariaville Lake)

7.1.1 PURPOSE: This district is made up of properties abutting Mariaville Lake. The purpose is to protect the lake from significant environmental impacts, while maintaining the traditional character of the lake.

7.1.2 PERMITTED USES

- 1) Bed and Breakfast
- 2) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 3) Family Day Care Home
- 4) Group Family Day Care Home
- 5) Public Utility Use
- 6) Roadside Stand

7.1.3 USES REQUIRING SITE PLAN APPROVAL

- 1) Ambulance Building
- 2) Antique Shop
- 3) Craft Shop
- 4) Fire House
- 5) Home Occupation (Zoning Board of Appeals)
- 6) Library
- 7) Municipal Building
- 8) Municipal Facility
- 9) Municipal Park
- 10) Municipal Playground
- 11) Museum
- 12) Office Building for one business occupant
- 13) Post Office
- 14) Religious Institution

7.1.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Dwelling, Two-Family
- 2) Restaurant-connected to Town of Duanesburg Sewer District #2
- 3) School, Private
- 4) Wind Facility

7.1.5 MINIMUM LOT SIZES

- 1) Minimum Land Area shall be 43,560 square feet
- 2) Minimum Lot Width shall be 175 feet
- 3) Minimum Lot Depth shall be 200 feet
- 4) Maximum Lot Coverage shall be 30%

7.1.6 MINIMUM BUILDING SETBACK DIMENSIONS

- 1) Minimum Front Setback shall be 40 feet from the Front Building Line
- 2) Minimum Side Setback shall be 40 feet from the Side Building Line
- 3) Minimum Side Setback on corner lot shall be 40 feet from the Side Building Line
- 4) Minimum Rear Setback shall be 40 feet from the Rear Building Line

7.1.7 LAKE ACCESS: No new access way to the lake can be constructed between a non-contiguous lake parcel and a contiguous lake parcel.

7.1.8 MAXIMUM BUILDING HEIGHT

- 1) Maximum Building Heights shall be 2 1/2 stories not exceeding 35 feet

7.1.9 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

Lake District (L-2)
(Duane Lake)

7.2.1 PURPOSE: This district is made up of properties that surround Duane Lake. The purpose is to protect the lake from significant environmental impacts while maintaining the traditional character of the lake.

7.2.2 PERMITTED USES:

- 1) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 2) Family Day Care Home
- 3) Group Family Day Care Home

7.2.3 *Not Used*

7.2.4 USES PERMITTED BY SPECIAL USE PERMIT:

- 1) Dwelling, Two-Family

7.2.5 MINIMUM LOT SIZES:

- 1) Minimum Land Area shall be 43,560 square feet (1 acre)
- 2) Minimum Lot Width shall be 175 feet
- 3) Minimum Lot Depth shall be 200 feet
- 4) Maximum Lot Coverage shall be 30%

7.2.6 MINIMUM BUILDING SETBACK DIMENSIONS:

- 1) Minimum Front Setback shall be 40 feet from Front Building Line
- 2) Minimum Side Setback shall be 40 feet from Side Building Line
- 3) Minimum Side Setback on corner lot shall be 40 feet from Side Building Line
- 4) Minimum Rear Setback shall be 40 feet from Rear Building Line

7.2.7 LAKE ACCESS: No new access way to the lake can be constructed between a non-contiguous lake parcel and a contiguous lake parcel.

7.2.8 MAXIMUM BUILDING HEIGHT:

- 1) Maximum Building Heights shall be 2 ½ stories not exceeding 35 feet.

7.2.9 MAXIMUM BUILDING SIZE:

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

SECTION 8

AGRICULTURAL & RESIDENTIAL DISTRICT (R-2)

8.1 PURPOSE: This district provides a proper environment for continued agricultural use of land, to maintain the rural character of the Town and to assure overall lower densities of residential development in areas without municipal Sewage Treatment Facilities or public water.

8.2 PERMITTED USES

- 1) Agriculture, provided that domestic farm animals are kept in buildings and structures not less than 200 feet from any neighboring property line.
- 2) Bed and Breakfast
- 3) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 4) Equine Facility
- 5) Family Day Care Home
- 6) Garage, Private
- 7) Group Family Day Care Home
- 8) Public Utility Use
- 9) Roadside Stand
- 10) Stable

8.3 USES REQUIRING SITE PLAN APPROVAL

- 1) Ambulance Building
- 2) Antique Shop
- 3) Bank
- 4) Cluster Development
- 5) Commercial Cemetery
- 6) Craft Shop
- 7) Fire House
- 8) Home Occupation (Zoning Board of Appeals)
- 9) Library
- 10) Municipal Building
- 11) Municipal Facility
- 12) Municipal Park
- 13) Municipal Playground
- 14) Museum
- 15) Office Building, for one business occupant
- 16) Post Office
- 17) Religious Institution

8.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Adult Care Facility
- 2) Airport/Landing Field
- 3) Animal Hospital or Veterinary Hospital
- 4) Bowling Alley
- 5) Camp
- 6) Campground
- 7) Dwelling, Multi-Family connected to a Sewage Treatment Facility
- 8) Dwelling, Two-Family
- 9) Golf Course
- 10) Garage, Public
- 11) Kennel
- 12) Natural Production Use
- 13) Office Building for more than one business occupant
- 14) Recreational Center/Country Club
- 15) Sawmill
- 16) School, Private
- 17) Wind Facility

8.5 MINIMUM LOT SIZE

- 1) Minimum Land Area shall be 100,000 square feet
- 2) Minimum Lot Width shall be 200 feet
- 3) Minimum Lot Depth shall be 200 feet
- 4) Maximum Lot Coverage shall be 25%

8.6 MINIMUM BUILDING SETBACK DIMENSION

- 1) Minimum Front Setback shall be 80 feet from the Front Building Line
- 2) Minimum Side Setback shall be 40 feet from the Side Building Line
- 3) Minimum Side Setback on corner lot shall be 80 feet from the Side Building Line
- 4) Minimum Rear Setback shall be 80 feet from the Rear Building Line

8.7 MAXIMUM BUILDING HEIGHTS

- 1) Maximum Building Height shall be 2 1/2 stories not exceeding 35 feet
- 2) No Maximum Building Height for Structures or Buildings used for Agriculture

8.8 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

SECTION 9

HAMLET (H)

9.1 PURPOSE: This district permits the continued development of hamlet areas consistent with historic hamlet building design and settlement pattern with compact pedestrian scale neighborhoods, and allows mix of uses and a system of interconnected streets.

9.2 PERMITTED USES

- 1) Bed and Breakfast
- 2) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 3) Family Day Care Home
- 4) Group Family Day Care Home
- 5) Public Utility Use
- 6) Roadside Stand

9.3 USES REQUIRING SITE PLAN REVIEW

- 1) Ambulance Building
- 2) Antique Shop
- 3) Bank
- 4) Bar
- 5) Barber Shop
- 6) Beauty Shop
- 7) Cluster Development
- 8) Commercial Cemetery
- 9) Craft Shop
- 10) Fire House
- 11) Funeral Home
- 12) Health Club
- 13) Home Occupations (Zoning Board of Appeals)
- 14) Library
- 15) Municipal Building
- 16) Municipal Facility
- 17) Municipal Park
- 18) Municipal Playground
- 19) Museum
- 20) Nightclub
- 21) Office Building for one business occupant
- 22) Post Office
- 23) Religious Institution

24) Restaurant

9.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Adult Care Facility
- 2) Animal Hospital or Veterinary Hospital
- 3) Bowling Alley
- 4) Concert Hall
- 5) Convenience Store
- 6) Drive-In Establishment
- 7) Dwelling, Multi-Family connected to a Sewage Treatment Facility
- 8) Dwelling, Two-Family
- 9) Garage, Public
- 10) Gasoline Station – Motor Vehicle Service Station
- 11) Health Care Facility
- 12) Laundry
- 13) Office Building for more than one business occupant
- 14) Recreational Center/Country Club
- 15) Retail Business
- 16) School, Private
- 17) Shopping Center
- 18) Theater
- 19) Wind Facility

9.5 MINIMUM LOT SIZE – Other than Single-Family Dwelling, meeting the requirements of Paragraph 9.8

- 1) Minimum Land Area shall be 43,560 square feet
- 2) Minimum Lot Width shall be 100 feet
- 3) Minimum Lot Depth shall be 120 feet
- 4) Maximum Lot Coverage shall be 50%

9.6 MINIMUM BUILDING SETBACK DIMENSIONS

- 1) Minimum Front setback shall be 20 feet from the Front Building Line
- 2) Minimum Side setback shall be 15 feet from the Side Building Line
- 3) Minimum Side setback on a corner lot shall be 20 feet from the Side Building Line
- 4) Minimum Rear setback shall be 30 feet from the Rear Building Line

9.7 MAXIMUM BUILDING HEIGHTS

- 1) Maximum building height shall be three (3) stories not exceeding 42 feet

9.8 REDUCED LOT SIZE PROVISION - SINGLE FAMILY

Minimum Land Area for a Single-Family Dwelling shall be reduced to 15,000 square feet when a municipal Sewage Treatment Facility is available and utilized. Such facility shall be deemed available

when sewer pipes to said facility are within 100 feet of the Lot on which the Dwelling is located and a connection may lawfully be made thereto.

9.10 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

SECTION 10

MOBILE HOME PARK DISTRICT (MP)

10.1 PURPOSE: This district permits housing alternatives to meet the diverse needs of the Town's residents.

10.2 PERMITTED USES

- 1) Group Family Day Care Home
- 2) Family Day Care Home
- 3) Mobile Homes in Mobile Home Parks subject to Section 10.9
- 4) Public Utility Use
- 5) Roadside Stand

10.3 USES REQUIRING SITE PLAN REVIEW

- 1) Ambulance Building
- 2) Antique Shop
- 3) Bank
- 4) Craft Shop
- 5) Firehouse
- 6) Home Occupations (Zoning Board of Appeals)
- 7) Library
- 8) Municipal Building
- 9) Municipal Facility
- 10) Municipal Park
- 11) Municipal Playground
- 12) Museum
- 13) Office Building for one business occupant
- 14) Post Office
- 15) Religious Institution

10.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Golf Course
- 2) Laundry
- 3) School, Private
- 4) Wind Facility

10.5 MINIMUM TOTAL PARK SIZE

- 1) Minimum Land Area shall be 10 acres
- 2) Minimum Lot Width shall be 400 feet

- 3) Minimum Lot Depth shall be 400 feet

10.6 MINIMUM LOT DIMENSIONS - For each Individual Lot in the Mobile Home Park

- 1) Minimum Lot Width shall be 100 feet
- 2) Minimum Lot Depth shall be 125 feet
- 3) Minimum Front Setback shall be 30 feet from the Front Building Line of each Individual Lot
- 4) Minimum Side Setback shall be 30 feet from the Side Building Line of each Individual Lot
- 5) Minimum Rear Setback shall be 25 feet from the Rear Building Line of each Individual Lot

10.7 MAXIMUM BUILDING HEIGHT

- 1) Maximum Building Height shall be 1 story, not exceeding fourteen (14) feet

10.8 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

10.9 MOBILE HOMES AND MOBILE HOME PARKS

10.9.1 Location. Mobile homes or house trailers are specifically prohibited in all zoning districts except the MP, Mobile Home Park District.

10.9.2 Pre-existing Mobile Homes. Notwithstanding any provision of this Ordinance, owners and/or lessees of property within the Town of Duanesburg, upon which a Mobile Home has been situated and established prior to the enactment of this Ordinance, shall retain such previous rights and prerequisites pertaining thereto, in the same manner as any other Dwelling, including the right to substitute another Mobile Home in the place of the Mobile Home presently situated and established on said property.

10.9.3 Mobile Home Park Design Regulations. The Town Board may, after Planning Board review, public notice and hearing, establish a Mobile Home Park District in an Agricultural and Residential District (R-2), provided that the applicant meets the following standards for development:

- 1) Maximum Gross Density - The overall gross density (total acres of the site divided by the number of mobile home sites) shall not exceed one per 30,000 square feet.
- 2) Setbacks and Distances Between Mobile Homes - There shall be a minimum of sixty (60) feet distance between Mobile Homes, and interior streets and/or property line; minimum setbacks at the end of a Mobile Home shall be eighty (80) feet from a public street. In computing these setbacks and distances, lean-to's, auxiliary rooms, and similar accessories connected to the trailer, but not including temporary porches and canopies which are open on two or more sides, shall be considered as part of the mobile home.

- 3) Required Off-Street Parking - There shall be at least two (2) off-street Parking Spaces for each Mobile Home within the Mobile Home Park. In addition, there shall be 1/2 off-street Parking Space for each three Mobile Homes within the park located throughout the park at places of public congregation. Size and design of Parking Spaces shall conform to the requirements of this Ordinance.
- 4) Access - Mobile Home Parks shall have at least two (2) connections with a street or highway adequate to handle traffic to and from the park without creating a nuisance or endangering public safety in adjacent properties or neighborhoods.
- 5) Recreation Areas and Exterior Yards - An area, of not less than five hundred (500) square feet per Mobile Home lot, shall be provided for the recreational use of all residents of the Mobile Home Park. In addition, the Mobile Home Park shall have a landscaped area at least fifty (50) feet wide along all exterior lot lines and public street frontages. Such areas shall be suitably planted, landscaped and maintained so as to screen and obscure adjacent properties.
- 6) Waste Disposal - Any mobile home park shall have a sewage disposal system approved by the New York State Health Department and or the Department of Environmental Conservation or connected to municipal Sewage Treatment Facility.
- 7) Utility Shed - On each Mobile Home lot, there shall be located an enclosed approved utility shed. Each shed must be sided with a siding material of similar quality and appearance to Mobile Home on the lot. No shed shall be located between the mobile home and the street.
- 8) Interior Roads - All roads in the Mobile Home Park shall have no less than a sixty (60) foot right-of-way, and at least twenty (20) feet hard aggregate surface in accordance with the Town Road Ordinance. All such roadways and streets shall be properly drained and shall be maintained in good condition by the operator of the Mobile Home Park.
- 9) Skirting - All outside area below the mobile home floor line shall be enclosed with suitable material manufactured for that purpose.
- 10) Inspection - A semi-annual inspection of each mobile home park shall be made by the Town Uniform Code Enforcement Officer with the Fire Chief of the appropriate Fire District. Each Mobile Home requires a Building Permit and a Certificate of Occupancy issued by the Town Building Inspector. (See Section 14.3 and 14.4)

SECTION 11

COMMERCIAL (C-1)

11.1 PURPOSE: This district permits centers for convenient shopping, commercial activity and services to meet the business and commercial needs of the community. This district is intended to be designed as clusters of commercial activity to minimize traffic conflicts and to avoid strip development.

11.2 PERMITTED USES

- 1) Public Utility Use
- 2) Roadside Stand

11.3 USES REQUIRING SITE PLAN APPROVAL

- 1) Ambulance Building
- 2) Antique Shop
- 3) Bank
- 4) Bar
- 5) Barber Shop
- 6) Beauty Shop
- 7) Concert Hall
- 8) Craft Shop
- 9) Fire House
- 10) Funeral Home
- 11) Health Club
- 12) Home Occupation (Zoning Board of Appeals)
- 13) Hotel
- 14) Library
- 15) Motel
- 16) Municipal Building
- 17) Municipal Facility
- 18) Municipal Park
- 19) Municipal Playground
- 20) Museum
- 21) Nightclub
- 22) Office Building for one business occupant
- 23) Post Office
- 24) Religious Institution
- 25) Restaurant
- 26) Theater

11.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Airport / Landing Field
- 2) Amusement Park
- 3) Animal Hospital or Veterinary Hospital
- 4) Bowling Alley
- 5) Camp
- 6) Campground
- 7) Convenience Store
- 8) Drive-In Establishment
- 9) Dwelling, Multi-Family
- 10) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 11) Dwelling, Two-Family
- 12) Equine Facility
- 13) Family Day Care Home
- 14) Garage, Private
- 15) Garage, Public
- 16) Gasoline Station-Motor Vehicle Service Station
- 17) Golf Course
- 18) Group Family Day Care Home
- 19) Health Care Facility
- 20) Kennel
- 21) Laundry
- 22) Motor Vehicle Sales
- 23) Natural Production Use
- 24) Office Building for more than one business occupant
- 25) Recreational Center/Country Club
- 26) Retail Business
- 27) Sawmill
- 28) School, Private
- 29) Shopping Center
- 30) Stable
- 31) Wind Facility

11.5 MINIMUM LOT SIZE DIMENSIONS

- 1) Minimum Land Area shall be 100,000 square feet
- 2) Minimum Lot Width shall be 200 feet
- 3) Minimum Lot Depth shall be 200 feet
- 4) Maximum Lot Coverage shall be 50%

11.6 MINIMUM BUILDING SETBACK DIMENSIONS

- 1) Minimum Front Setback shall be 80 feet from the Front Building Line
- 2) Minimum Side Setback shall be 40 feet from the Side Building Line
- 3) Minimum Side Setback on a corner lot shall be 80 feet from the Side Building Line
- 4) Minimum Rear Setback shall be 80 feet from the Rear Building Line

11.7 MAXIMUM BUILDING HEIGHTS

- 1) Maximum building height shall be three (3) stories not exceeding 42 feet

11.8 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

SECTION 12

MANUFACTURING & LIGHT INDUSTRIAL DISTRICT (C-2)

12.1 PURPOSE: This district permits research and development oriented industries and other manufacturing assembly, fabrication, extraction or warehousing of materials consistent with existing performance standards. The activity and manufacturing involved with these uses generally do not involve processes associated with heavy industrial uses.

12.2 PERMITTED USES

- 1) Public Utility Use
- 2) Roadside Stand

12.3 USES REQUIRING SITE PLAN REVIEW

- 1) Ambulance Building
- 2) Antique Shop
- 3) Bank
- 4) Bar
- 5) Barber Shop
- 6) Beauty Shop
- 7) Concert Hall
- 8) Craft Shop
- 9) Fire House
- 10) Funeral Home
- 11) Health Club
- 12) Home Occupation (Zoning Board of Appeals)
- 13) Hotel
- 14) Library
- 15) Motel
- 16) Municipal Building
- 17) Municipal Facility
- 18) Municipal Park
- 19) Municipal Playground
- 20) Museum
- 21) Nightclub
- 22) Office Building for one business occupant
- 23) Post Office
- 24) Religious Institution
- 25) Restaurant

26) Theater

12.4 USES PERMITTED BY SPECIAL USE PERMIT

- 1) Airports / Landing Field
- 2) Amusement Park
- 3) Animal Hospital or Veterinary Hospital
- 4) Bowling Alley
- 5) Camp
- 6) Campground
- 7) Convenience Store
- 8) Drive-In Establishment
- 9) Dwelling, Multi-Family
- 10) Dwelling, Single-Family, consisting of a minimum gross floor area of 600 square feet.
- 11) Dwelling, Two-Family
- 12) Equine Facility
- 13) Family Day Care Home
- 14) Garage, Private
- 15) Garage, Public
- 16) Gasoline Station – Motor Vehicle Service Station
- 17) Golf Course
- 18) Group Family Day Care Home
- 19) Health Care Facilities
- 20) Industrial, Light
- 21) Kennel
- 22) Laundry
- 23) Manufacturing
- 24) Motor Vehicle Sales
- 25) Natural Production Use
- 26) Office Building for more than one business occupant
- 27) Recreational Center/Country Club
- 28) Retail Business
- 29) Sawmill
- 30) School, Private
- 31) Shopping Center
- 32) Stable
- 33) Storage Facility
- 34) Warehousing
- 35) Wind Facility

12.5 MINIMUM LOT SIZES AND DIMENSIONS

- 1) Minimum Land Area shall be 100,000 square feet

- 2) Minimum Lot Width shall be 200 feet
- 3) Minimum Lot Depth shall be 200 feet
- 4) Maximum Lot Coverage shall be 50%

12.6 MINIMUM BUILDING SETBACK DIMENSIONS

- 1) Minimum Front Setback shall be 80 feet from the Front Building Line
- 2) Minimum Side Setback shall be 40 feet from the Side Building Line
- 3) Minimum Side Setback on corner lot shall be 80 feet from the Side Building Line
- 4) Minimum Rear Setback shall be 80 feet from the Rear Building Line

12.7 MAXIMUM BUILDING HEIGHTS

- 1) Maximum Building Height shall be three (3) stories not exceeding 42 feet

12.8 MAXIMUM BUILDING SIZE

- 1) Maximum Building Size shall be forty thousand (40,000) square feet of Total Floor Area.

SECTION 13

SUPPLEMENTAL REGULATIONS

13.1 SPACE REGULATIONS

- 13.1.1 Uses Prohibited.** Certain uses may be prohibited by the Planning Board or Zoning Board of Appeals where use is or is likely to be noxious or offensive by reason of the emission of odor, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light or injurious to public health, safety or the general welfare.
- 13.1.2 Existing Small Lots.** Notwithstanding the limitations imposed by any other provisions of this Ordinance, the Zoning Board of Appeals may grant an Area Variance for the erection of a Single Family Dwelling on any separately owned Lot or any Lot under contract of sale and containing, at the time of the passage of this Ordinance, dimensions smaller than required in that District. For such purposes, the minimum side yard requirements will be reduced in proportion to the reduction of Lot Width over the specified minimum Lot Width for the District. Where two or more adjacent Lots are owned by the same applicant, combination of said Lots shall be required, unless such adjacent lot is improved with a Dwelling at the time of such application for an Area Variance.
- 13.1.3 Reduced Lot Area.** No lot with an existing Dwelling shall be so reduced in area as to cause it to be smaller than prescribed in the regulations for the District.
- 13.1.4 Reduced Front Yard Depth.** Each Dwelling hereafter erected may have a front yard equal in depth to the average front yard depth of the Dwellings within one hundred (100) feet thereof on each side.
- 13.1.5 Reduced Rear Yards.** When a Lot is less than one hundred (100) feet deep at the time of the passage of this Ordinance, such rear yard may be decreased by one-quarter of the distance that the Lot Depth is less than the one hundred (100) feet; provided, however, that no rear yard shall be less than fifteen (15) feet in depth, and that any accessory building may be as close as six (6) feet from the rear property line.
- 13.1.6 Corner Lot Transition.** On every corner lot there shall be provided on the side street a side yard equal in depth to the required front yard depth.

13.2 OFF-STREET PARKING

The purpose of this section is to provide guidance as to the appropriate parking facilities that

shall be required in conjunction with new development or a change in use.

13.2.1 Minimum spaces required for off-street parking:

1) The required minimum number of parking spaces are as follows:

Dwelling	Two (2) per unit.
Motel, Hotel, Bed and Breakfast	One (1) per each guest room.
Religious Institution	One (1) for each five (5) seating spaces in main assembly room.
School, Public or Private	Three (3) for each classroom.
Retail Business, Bank, Post Office	One (1) for each one hundred eighty (180) square feet of Total Floor Area.
Restaurant, Bar, Nightclub	One (1) for each one hundred (100) square feet of Total Floor Area.
Office Building, Health Club	One (1) for every two hundred fifty (250) square feet of Total Floor Area.
Warehousing, Storage Building, Storage Facility, Public Utility Use	One (1) for every one thousand (1000) square feet of Total Floor Area.
Light Industrial, Manufacturing	One (1) for every two (2) employees anticipated to be employed on the site at any given point in time, plus one (1) for each company vehicle parked or used at that location.
Theater, Concert Hall, Bowling Alley, Recreational Center, Amusement Park	One (1) for each (4) seats provided for its patrons (based on maximum seating capacity), or one (1) parking space for each four (4) persons permitted, based on maximum occupancy.
Health Care Facility, Group Family Day Care Home, Family Day Care Home.	One (1) for each three (3) patients based on maximum occupancy and for each three (3) Employees.
Roadside stand	Five (5) spaces per stand plus one (1) for each two hundred (200) gross square feet.

Funeral Home

1 space for every 3 persons based on maximum occupancy.

- 2.) The Planning Board and the Zoning Board of Appeals reserve the right to waive any portion of the parking requirements in the event that proximate public parking exists to support the use. Off-street parking spaces for separate uses may be provided if collectively the total number of spaces is not less than the sum of the space required for the use. However, if the applicant can establish that such collective parking area will experience reduced parking demand due to staggered hours of operation, the Planning Board may authorize a reduction of the total number of spaces by up to twenty-five percent (25%)

13.2.2 Design of Off-Street Parking Facilities.

- 1.) Each parking space shall be at least nine (9) feet wide and eighteen (18) feet long. For parallel parking, the minimum length of the space shall be twenty-three (23) feet.

Parking Lot Sizes and Dimensions

Angle (degrees)	Aisle Width - One Directional	Aisle Width - Two Directional
90	20'	24'
60	18'	22'
45	13'	22'
30	11'	22'
Parallel	11'	22'

- 2.) Driveways providing street access to parking aisles shall be at least sixteen (16) feet in width.
- 3.) Lines designating parking spaces may be drawn at various angles in relation to the curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
- 4.) Handicap parking spaces are to be supplied in accordance with Table 1106.1 of the Building Code of New York State, as may be amended from time to time.
- 5.) In the Hamlet (H) District, parking on the principal street should be minimized and where possible, should be located in the rear and side yards.

13.2.3 Off Street Loading. Loading spaces shall be provided for each commercial or business use in sufficient location and size so that no loading and unloading operations infringe upon any sidewalk, street, or parking areas. Each off-street loading space shall be at least fifteen (15) feet wide, thirty-five (35) feet long and, if covered, fourteen (14) feet high. No loading spaces shall be located within any required front yard, or closer than ten (10) feet from any lot line adjoining a residentially developed or zoned property. Sufficient screening shall be provided along all lot lines abutting residentially developed or zoned property to largely obscure the loading space from the residential use. The Planning Board or Zoning Board of Appeals may waive the requirement if in their discretion the commercial or business use does not require off street loading.

13.2.4 Screening and Landscaping

All parking areas containing more than five (5) parking spaces shall be located at a minimum of ten (10) feet from any residentially developed or zoned property. Sufficient screening shall be provided to obscure the parking space from the residential property.

13.3 TRAFFIC HAZARDS

13.3.1 Visibility at Intersections. On a corner lot, no fence, wall, hedge or other structure or planting shall be erected, placed, or maintained within the triangular area formed by the intersecting street lines and a line joining said street lines at points which are thirty (30) feet distant from the point of intersection, measured along said street lines.

13.3.2 Distracting Lights. No artificial lights or reflecting devices shall be located or displayed where such lights or devices interfere with or compete for attention with traffic signals or divert the attention of operators of motor vehicles or otherwise create traffic hazards, or create glare on any neighboring property.

13.4 SIGNS

13.4.1 Purpose. The purpose of this section is to permit such signs that shall not, by their size, location, construction or manner of display, obstruct the vision necessary for traffic safety or otherwise endanger public safety. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve scenic and natural beauty and provide more visual open space by permitting and regulating signs in such a way as to support and complement the objectives and goals of the Town's Comprehensive Land Use Plan.

13.4.2 Signs A sign permit is required for those signs expressly allowed in this section. Non-

conforming signs in existence prior to the adoption of this Ordinance or any amendment hereto shall not be relocated or altered except in conformance with this section. Any change in the content of a nonconforming sign, including names, words, logos, or similar information, shall constitute an alteration. The maximum sign area requirements as set forth in this Section shall apply to a single side of a sign. On a two sided sign only one side shall be counted in computing the sign's area. No portion of a sign shall be closer than ten (10) feet from all lot lines and/or ten (10) feet from the edge of improved road. Business signs shall be removed when the business no longer engages in commerce.

13.4.3 Sign Permit Process. The applicant shall be required to submit to the Uniform Code Enforcement Officer a completed sign permit application containing, at a minimum, the following information prior to erection of the proposed sign:

- 1) Scaled drawing showing location of the sign on the lot.
- 2) Sketch drawn to scale of the proposed sign, which indicates the sign dimensions, the graphic design, visual message, text and content of the sign.
- 3) Fee for the permit as established by the Town Board.
- 4) Letter of permission from owner of property for sign proposed to be located if other than applicant.
- 5) Such other information as shall be reasonably required by the Uniform Code Enforcement Officer.

13.4.4 Permit Duration. The sign permit shall be valid indefinitely, subject to the requirements of this Ordinance pertaining to alteration or relocation.

13.4.5 Residential (R1), Lake (L1 & L2), Agricultural (R2), and Mobile Home Park (MP) District Sign Regulations:

- 1.) Nonresidential uses may display not more than one sign or bulletin board pertaining to the use of property. Such sign shall have a total face area of not more than twelve (12) square feet.
- 2) Residential uses (Multi-Family Dwelling, Home Occupation, Bed & Breakfast) may display one sign identifying the premises, having a face area of eight (8) square feet and having not more than two (2) faces.

13.4.6 Hamlet District (H) Sign Regulations. Not more than two (2) signs per business unit, having an aggregate face area of thirty (30) square feet shall be permitted. Such signs may be erected on the ground, and there shall be not more than one projecting sign per business unit, provided further that such signs shall not extend more than 20 feet above the ground or exceed the highest part of the building. A pole sign shall be limited to a maximum height of 25 feet above ground level.

13.4.7 Commercial (C-1) & Light Industrial (C-2) Sign Regulations.

- 1) Where one business occupies a Building, two business signs will be permitted.
 - a) One sign shall be flush with and connected to the Building and shall be limited in square footage to twenty-five percent (25%) of the linear feet of the width of the

building frontage, not protrude more than one foot (12 inches) from the building façade and be single-faced.

- b) The other sign may be: (i) a free standing sign of not more than thirty (30) square feet in area, and shall not stand higher than ten (10) feet to the highest point of the sign; or (ii) a pole sign shall be limited to a maximum height of twenty-five (25) feet

above

ground level, no closer than five (5) feet from the property line and subject to site plan review.

- 2) Where two or more business occupy a Building or Lot, one sign is permitted per business occupancy. In addition, the owners of said Building or Lot may have a directory sign listing occupants at main entrance to the facility.
 - a) Each business sign shall be flush with and connected to the building and shall be limited in square footage to twenty-five percent (25%) of the linear feet of the width of the business frontage and not protrude more than one foot (12 inches) from the building façade and be single-faced.
 - b) The Directory sign listing occupants of individual Buildings or shops may be installed on the front lawn appurtenant to such Building not closer than five (5) feet from the property line, provided such sign shall be designed as part of the site and landscape plan for such building. The Directory sign shall be limited to a maximum height of thirty (30) feet above ground level.

13.4.8 Projecting Signs. Signs shall not project into a public right-of-way, nor have a clearance of less than ten (10) feet above the sidewalk or surrounding ground and less than fifteen (15) feet above any driveway.

13.4.9 Subdivision Signs. A subdivision may erect a non-illuminated sign setting forth the name of the subdivision within the limits of the subdivision, having a face area of not more than twenty-five (25) square feet and not to exceed five (5) feet in height measured from the level where the pole or support enters the soil or pavement.

13.4.10 Directional Signs.

13.4.10.1 Temporary Directional Signs.

Nothing in this Ordinance shall prohibit the erection of temporary directional signs with the intended purpose of directing the public to the site of events or exhibitions. These signs shall not exceed an area of twenty (20) square feet, and shall display only the name and location of the event or exhibition, and provide directional guidance.

Permission of the property owner or highway department having jurisdiction over the location shall be obtained before the signs are erected. The design, construction, and location of the signs shall be such as to not create traffic hazards by blocking line of sight views of rights of ways.

Signs shall not be erected before two (2) weeks preceding the event, and shall be removed within four (4) days after the conclusion of the event.

No sign permit is required for Temporary Directional Signs.

13.4.10.2 Permanent Directional Signs. (Business)

Permanent directional signs may be erected with the intended purpose of directing the public to the location of the businesses that provide goods and services. To qualify for such signs, the maximum that such businesses can be located from the main traveled highway is five (5) miles. Permanent directional signs erected along U.S. or New York State highways shall conform the New York State or U.S. standards, as applicable. Permanent directional signs erected along county highways shall conform to the requirements of the Schenectady County Highway Department. Permanent directional signs erected along Town of Duanesburg Roads shall conform to the Schenectady County Highway Department requirements unless otherwise approved by the Town of Duanesburg Zoning Board of Appeals. Permanent directional signs require a sign permit from the Town of Duanesburg, and the application for such permit shall include written permission from the owner of the property or Highway Department right-of-way on which the sign is to be erected.

13.4.11 Exemptions. The following signs shall be exempt from the foregoing regulations:

- 1) Real estate signs which advertise the sale, rental, or lease of the premises upon which said signs are located, having an aggregate total face area of not more than six (6) square feet in the residential districts, (R1, R2, L1), twelve (12) square feet in the business districts, (H, C1), and twenty (20) square feet in the industrial district (C2).
- 2) One professional or business name plate not exceeding eight (8) square feet in area for any one professional or business establishment designating a Home Occupation.
- 3) One sign denoting the lender, architect, engineer, and/or contractor when placed upon work under construction, not exceeding thirty-two (32) square feet in area; in no event for a period exceeding twelve (12) months.
- 4) Memorial signs or tablets attached flat, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; in no event larger than two (2) square feet.
- 5) Traffic or other municipal signs, legal notices, and such temporary, emergency, historical, or non-advertising signs as may be authorized by the Town Board.
- 6) Posting of notices to the public pertaining to but not limited to fishing, trespassing and the like, provided each such sign does not exceed one (1) square foot in area.
- 7) Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies, not exceeding twenty-four (24) square feet in area.

13.4.12 Homestead Signs. Homestead signs are that which identify a residence with other than a

family name. Such signs shall not advertise a business nor create a safety hazard. Such signs require a “no fee” permit and shall not be over four (4) square feet in area.

- 13.4.13 Illuminated Signs.** Illumination of signs shall not be of varying or intermittent intensity or produce direct glare beyond the limits of the side property line. Colored lights of such shape and hue that they may be confused with official traffic lights and signals shall be prohibited. All bare light sources and immediately adjacent reflecting surfaces shall be shielded from view.
- 13.4.14 Banners.** No permanent sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices.
- 13.4.15 Roof Signs.** No signs shall be mounted on the roof of any building.
- 13.4.16 Event Signs.** Temporary signs advertising or announcing any and all events, shall not be displayed until four (4) weeks prior to the event and must be removed within four (4) days after the event. No such signs shall be attached to any street sign or traffic control sign or utility pole. All temporary signs shall have the date of the event.
- 13.4.17 Election Signs.** Shall not be displayed until four (4) weeks prior to the event and must be removed within five (5) days after the event. No such sign shall be attached to any street sign or traffic control sign or utility pole. Sign shall be limited in size to six (6) square feet.
- 13.4.18 Signs As Principal Use.** No sign may be established as a principal use on any lot in any district except as otherwise expressly permitted by this Ordinance.
- 13.4.19 Maintenance, Alterations And Violations.**
No sign shall be erected or altered except in conformity with the provisions of this Ordinance. It shall be the duty of the owner and occupant of lands of buildings having signs thereon to maintain the same free of faulty wiring, loose fastenings and any other conditions which, in the opinion of the Uniform Code Enforcement Officer, would render such sign unsafe and hazardous to members of the public. If the Uniform Code Enforcement Officer shall find that any sign has been erected, altered or maintained in violation of the provisions of this Ordinance he shall serve written notice specifying the violation upon the owner of the sign and the owner or occupant of the land or building upon which the sign is erected, directing such owner or occupant to forthwith remedy such violation or remove such sign within thirty (30) days from the date of service of such notice. Such notice may be served personally or by certified mail addressed to such owner or occupant at the address stated in the permit application for such sign, or in the absence of such permit, the address of the premises upon which such sign is located. Upon failure of such owner or occupant to remedy such violation or remove such sign within such thirty-day period, the Uniform Code Enforcement Officer shall thereupon revoke such sign permit. Thereafter such owner or occupant shall be in violation of this Ordinance, the Uniform Code Enforcement Officer may cause such sign to be removed and assess the costs and expenses incurred in such removal against the premises on which such sign is located. For the purposes of the service of all notices hereunder, the

occupant of land or premises, if he shall not be the owner thereof, shall be deemed the agent of such owner for the purpose of receiving such notices, and service of notice upon such occupant shall be deemed service upon the owner.

13.5 CLUSTER DEVELOPMENT

13.5.1 Purpose. Cluster Development enables, and encourages, flexibility of design and development of land in such a manner as to promote the appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands. The Planning Board, in reviewing or approving proposed residential developments, may approve or require approaches to housing and environmental design in accordance with this section.

13.5.2 Applicability.

- 1) Generally. This section shall apply to the sub-division of land into four (4), or more building lots according to the standards of this section, and which will be considered a major subdivision in accordance with the Town Subdivision Ordinance.
- 2) Voluntary application. An owner of property within any residential zoning district may make application under this section provided that the land area is adequate for the size and number of lots.
- 3) Required application. The Planning Board may require that a land parcel meeting the minimum requirements under this section be developed in a cluster design provided that:
 - a. The land parcel is located within a zoning district designated for residential use.
 - b. The parcel possesses one or more of the following site characteristics:
 - (1) Flood plain areas in accordance with FEMA maps as officially designated.
 - (2) Environmentally sensitive areas as may be designated on the Comprehensive Plan Map, or other areas designated by the Town Board as critical environmental areas, or as determined by governmental authorities having jurisdiction to make such a determination.
 - (3) Other areas of environmental significance, such as stream protection corridors or green-way recreation areas.
 - (4) Areas where topographical considerations, such as steep slopes, may preclude the normal use of part of the land for developmental purposes.

13.5.3 Procedures.

- 1) The Developer, in making a voluntary pre-application under this section, shall provide two sketch plans at the time of pre-application. One plan shall be a subdivision of conventional plan that meets all of the subdivision requirements in accordance with Town Zoning and Subdivision Ordinances. The other shall be a plan outlining Cluster Development.

- 2) Upon submission of a voluntary pre-application, the Developer shall present all information required to substantiate the rationale for proposing Cluster Development. Included shall be a written statement detailing the natural features to be preserved or enhanced, practical reasons for its consideration, and other reasons that indicate that cluster development is desirable. The statement should also compare the features of a conventional subdivision plan to the Cluster Development plan.
- 3) Upon determination by the Planning Board that a developer is required to develop that property as a cluster design, the Developer shall submit a preliminary plan meeting the requirements of this section.

13.5.4 General Design Requirements.

- 1) A Cluster Development shall meet all requirements for a subdivision in accordance with the applicable laws and ordinances with exception of the minimum required front and rear yard, setbacks and lot sizes.
- 2) The overall development shall be oriented in such a way as to maximize the preservation of environmental, recreational and cultural resources of the site.
- 3) The area dedicated for open space purposes shall be in amount, location, quality and shape as is desirable for accessibility to all developed properties and to preserve open space as determined by the Planning Board.

13.5.5 Density. The average density of dwellings in a Cluster Development shall not exceed that of a conventional subdivision that meets the lot size requirements for the residential zone in which it will be located. The cluster arrangement shall be reviewed by the Planning Board prior to action on the preliminary plat for compliance with these requirements and any other relevant legislation.

13.5.6 Permitted Uses. Permitted uses in a Cluster Development shall be the same as those allowed in that zoning district

13.5.7 Clustering of Structures, Lot Sizes and Dimensions.

- 1) Clustering of structures. Residential building lots proposed under this section shall be organized into clusters or groupings of individual building lots. No cluster of buildings shall contain less than four (4) lots.
- 2) Minimum lot size. An individual building lot in a cluster shall not be less than 1/4 of the acreage of that required for a similar building lot under the prevailing zoning district, and in no case shall an individual building lot be less than 1/2 acre.
- 3) Setbacks and Green-space. Each cluster of buildings shall conform to setback requirements for that district from any adjoining property or highway or road right-of-way except that which is designated for exclusive use by residents of the development. (i.e. The road serving the cluster or the green-space serving the cluster.) Each individual residential building within a cluster development shall have a minimum front and rear setback of 40 feet, and a minimum side yard setback as required by the zoning district in which the proposed development will be located.

13.5.8 Open Space. All land not included in building lots or road right-of-way shall be designated as open space. At minimum, open space within a development should equal or exceed the difference between the total land area required for the building lots under conventional subdivision and the total land area required for building lots under the proposed Cluster Development.

1. Where a Cluster Development abuts a public body of water or includes a body of water within its property boundaries, the useable portion of the shoreline, as well as reasonable access to it, shall be part of the open space.
2. All areas designated as open space shall also comply with the following:
 - a. As a condition of final plat approval of a Cluster Development, a perpetual conservation easement and/or other restrictive covenants upon property shall be placed on open space land which permanently prohibits residential, commercial or industrial use, restrict other development and allow use of open land for agriculture, forest management, recreation, watershed protection, wild life habitat or other open space use.
 - b. Open Space created by cluster development shall be clearly labeled on the final plat as to its shape, use, ownership, management, method of preservation and the right to such land, if any, of the property owners of the subdivision, and the general public. The plat should clearly identify that the open space is permanently reserved for open space purposes and shall not be platted for building lots.
 - c. Open Space which is environmentally sensitive and not suitable for development, but is suitable for public use, should be conveyed to a suitable not-for-profit entity to manage. Open Space which shall be principally used by residents of the development should be conveyed to a legally constituted homeowners association. If any land is to be held in common by a homeowners association, the declaration and the by-laws shall be submitted to the Planning Board prior to final plat approval, and reviewed by the Town Attorney to assure compliance with State laws, and that membership is mandatory for each lot owner who must be required by covenants and restrictions to pay taxes, insurance, maintenance and other charges of the common property.
 - d. Use of land for open space shall be restricted to noncommercial, non-intensive recreational use, and underground utility easements. The Planning Board may permit open space owned by a homeowners association to be used for septic systems or for communal septic systems, in accordance with Town requirements.
 - e. The Planning Board may impose Performance Standards applicable to open spaces and the use, maintenance and ownership thereof.
3. Nothing shall prohibit Open Space created pursuant to this section from being conveyed to the Town for recreational use upon acceptance of the Town Board.

13.6 Telecommunications Towers. See the Telecommunications Facilities Law.

13.7 Wind Towers. See Wind Energy Facilities Law.

SECTION 14

ADMINISTRATION

14.1 INTERPRETATION AND APPLICATION

In interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the public health, safety, general welfare. If the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.

14.2 UNIFORM CODE ENFORCEMENT OFFICER

The Town Board shall appoint the Uniform Code Enforcement Officer who shall be charged with the general administration and the enforcement of this Ordinance and the executive administration of the New York Uniform Fire Prevention and Building Code. The Town Board shall fix the salary or remuneration of such office and shall provide for the payment thereof. The Town Board may also appoint a Deputy Uniform Code Enforcement Officer who shall be similarly empowered to act during the absence of or at the direction of the Uniform Code Enforcement Officer. It shall be the duty of the Uniform Code Enforcement Officer to:

1. Issue building permits and certificates of occupancy where compliance is made with the provisions of this Ordinance, and refuse to issue or revoke the same in the event of non-compliance. Prompt written notice of such refusal or the revocation of any permit and the reason therefore shall be given to the owner or occupant of the premises.
2. Keep the Zoning Board of Appeals and Planning Board advised of all matters, other than routine duties, pertaining to the enforcement of this law and keep all records necessary and appropriate to his office and to file them in the office of the Uniform Code Enforcement Officer, including records of all permits and Certificates of Occupancy or Compliance issued or withheld.
3. Refer, in his discretion, appropriate matters to the Zoning Board of Appeals or the Planning Board for actions required by those Boards, and prepare and file in the office of the Uniform Code Enforcement Officer a notice of determination of such referral.
4. Refer applications for Home Occupation Business Permits to the Zoning Board of Appeals. With the Zoning Board of Appeal's approval, issue Home Occupation business Permits subject to any conditions or Performance Standards required by the Zoning Board of Appeals.
5. Schedule and conduct appropriate inspections on work sites.
6. Submit a report each month to the Town Board and Assessor enumerating the applications received, exceptions made and actions taken.
7. Initiate stop work orders and/or appropriate legal action on behalf of the Town to achieve enforcement of this Ordinance, Town Subdivision Regulations and the Uniform Fire Prevention and Building Code.
8. Maintain a list of special use permits and variances granted after the enactment of this Ordinance.

9. Review all building permit applications for new construction or substantial improvements in designated flood plain areas and follow all FEMA and other applicable rules and regulations. If a proposed building is in a flood plain area, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (a) be designed (or modified) and anchored to prevent flotation, lateral movement, or collapse of the structure, (b) use construction materials and utility equipment that are resistant to flood damage, and (c) use construction methods and practices that will minimize flood damage, (d) provide for new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and (e) require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.
10. Refer all building permit applicants for permit activities impacting designated wetlands to the Region 4 Department of Environmental Conservation (DEC) office or other appropriate Agency for pre-approval. No permits impacting on a designated wetland will be issued until approved by DEC or any other Agency having jurisdiction.
11. Issue summons to local Town Courts for violations of this Ordinance, Town Local Laws, and the Uniform Fire Prevention and Building Code. Surveillance shall be the responsibility of the Uniform Code Enforcement Officer who shall pursue violations whether or not there has been a complaint, written or verbal.
12. Perform all duties required by Local Law #7 from the year 2006

14.3 BUILDING PERMITS

1. No Building or Structure shall be excavated for, erected, added to or structurally altered externally, until a permit therefore has been issued by the Uniform Code Enforcement Officer.
2. In accordance with the NYS Uniform Fire Prevention and Building Code, a building permit is also required for:
 - a) Internal alteration affecting structural integrity.
 - b) Alterations affecting fire safety features.
 - c) Alterations having a significant effect on electrical systems.
 - d) Installation of solid fuel-burning appliances.
 - e) Installation of swimming pools.
 - f) Installation of a mobile home.
 - g) Any one (1) story shed or garage larger than 144 square feet.
 - h) The construction or repair of a septic system
 - i) The connection to municipal sewers
3. Building permits are not required for repairs to existing buildings or structures where no structural changes are involved.
4. All building permits will be issued through the office of the Uniform Code Enforcement Officer. Applications for all Building Permits will be filed with the Uniform Code Enforcement Officer who will either:
 - a) For permitted uses, a building permit may be issued directly by the Uniform Code Enforcement Officer; or

- b) For uses requiring Site Plan approval, a Special Use Permit and/or Variance, the Uniform Code Enforcement Officer will refer, the application, in his discretion, to the Board or Boards.
- 5. There shall be submitted initially with all applications for building permits, two (2) copies of a layout or plot plan showing the actual dimensions of the lot to be built upon, the actual size and location on the lot of the building and accessory buildings to be erected, the general driveway location, and such other information as may be necessary to determine and provide for the enforcement of this Ordinance. Additional copies may be required.
- 6. One copy of a final layout or plot plan shall be returned to the applicant when approved by the Uniform Code Enforcement Officer, together with a building permit upon payment of a fee set by the Town Board.
- 7. Permits for building not on approved streets.
 - a) No permit for the erection of any building (except on existing private roads) shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the official Town Map or Plan, or is there if no official Town Map or Plan, such street or highway is (1) an existing state, county or town highway, or (2) a street shown upon a plat approved by the Planning Board, and released for building, or (3) a designated rear lot (Not a subdivision) .
 - b) Where the enforcement of the provision of the section would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the structure to be related to existing or proposed streets or highways, the applicant for such a permit may appeal from the decision of the Uniform Code Enforcement Officer to the Zoning Board of Appeals.
- 8. Building permits issued will be prominently displayed in a weatherproof covering on the plot involved.

14.4 CERTIFICATE OF OCCUPANCY or CERTIFICATE OF COMPLIANCE

- 1. Where a building permit is required, no Building or Structure shall be used or occupied for any purpose until a Certificate of Occupancy or Certificate of Compliance shall have been issued stating that the building and proposed use thereof comply with the provisions of this Ordinance and the NYS Uniform Fire Prevention and Building Code. The Certificate of Occupancy or Certificate of Compliance shall be issued by the Uniform Code Enforcement Officer.
- 2. A Certificate of Occupancy or Certificate of Compliance is required for each new use or change in use of any building. No such use or changed use of any building shall be undertaken and no such building shall be occupied for such use or changed use until a Certificate of Occupancy or Certificate of Compliance shall have been issued stating that the building and proposed new use or change in use thereof complies with the provisions of this Ordinance and the NYS Uniform Fire Prevention and Building Code.
- 3. After the Uniform Code Enforcement Officer determines that all requirements have been met, a Certificate of Occupancy or Certificate of Compliance shall be issued within ten (10) days. Any Certificate of Occupancy or Certificate of Compliance voids any Certificate of a prior date for the same premises.

4. A Temporary Certificate of Occupancy may be issued for a period of twelve (12) months, with the option of renewing said Certificate for another twelve (12) months, providing construction of a Dwelling has commenced and is continuing. The Certificate will approve residency in a 20 x 24 foot or larger garage, a mobile home, RV, a basement or
uncompleted Dwelling if proper sanitary facilities are provided for and it is intended to be completed within 24 months. Such intent must be established by sufficient evidence that such construction will be implemented. Any such temporary Certificate of Occupancy shall be subject to approval by the Zoning Board of Appeals.
5. No Certificate of Occupancy shall be required for periods of up to thirty (30) days in any calendar year for occupied visiting recreation vehicles temporarily parked upon the premises of a resident of the Town of Duanesburg.
6. Emergency Temporary Certificate of Occupancy.
The Uniform Code Enforcement Officer may issue an emergency temporary Certificate of Occupancy for the placement and use of a mobile home on premises, meeting district setbacks, whereon a Dwelling in use as a residence has been substantially destroyed by fire or natural disaster and space on the premises is adequate to accommodate the mobile home and rebuilding activities. Said Emergency Temporary Certificate of Occupancy shall be valid for a period not exceeding one year from the date of the destruction of the Dwelling and shall not be extended or renewed without written approval of the Zoning Board of Appeals. In no event shall an Emergency Temporary Certificate of Occupancy be extended for more than one additional year. The Uniform Code Enforcement Officer shall not issue an Emergency Temporary Certificate of Occupancy without proof that adequate sanitary facilities have been installed.
7. The Uniform Code Enforcement Officer will issue a mailing/911 address for each new occupied structure concurrent with or before issuing the Certificate of Occupancy. Address numbers for new structures on existing roads shall be obtained from the County Communications Director/911 Coordinator so that the integrity of the numbering system based upon 1000 numbers per mile will be maintained. The Planning Board will establish and assign lot numbers for platted subdivisions on new roads. New road names should be coordinated with the County 911 Coordinator to avoid similar or same name streets that create confusion to emergency service agencies. In all cases, copies of the assignments will be provided to local fire and ambulance agencies, the appropriate Post Office and all local police, fire, and ambulance agencies.

14.5 ZONING BOARD OF APPEALS

Establishment and Organization.

A Zoning Board of Appeals, as created by prior Zoning Ordinances of the Town of Duanesburg, is hereby confirmed. Said Board shall consist of seven (7) members and may include two alternates, who are all residents of the Town of Duanesburg for a period of three (3) years prior to the effective date of appointment, and who are appointed by the Town Board, who shall also designate the chairperson. The five members first appointed shall serve respectively for terms of one year, two years, three years, four years and five years; thereafter each member appointed shall serve for five years. The two additional members appointed thereafter shall be first

appointed for terms of two and four years respectively. Alternates shall serve for a period of two (2) years (See 14.8). The Zoning Board of Appeals shall prescribe the rules for the conduct of its affairs not inconsistent with this Ordinance or with Section 267 of NYS Town Law. Three successive non excused absences from regular or special meetings or four meetings total in a calendar year will be considered cause for removal by the Town Board. The Zoning Board of Appeals shall have all the power and duties prescribed by the law and by this Ordinance. Nothing contained herein shall change the current composition and terms of the members and Alternates of the current Zoning Board of Appeals.

Meetings and Records. The meetings of the Zoning Board of Appeals may be held at least once each month, and at the call of the Chairperson, and at such other times as the Zoning Board of Appeals may determine.

All hearings of the Zoning Board of Appeals shall be open to the public to the extent provided in article seven of the public officer law. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall be filed in the office of the town clerk within five business days and shall be a public record.

14.5.1 Interpretation. Upon appeal from any decision or determination or referral by the Uniform Code Enforcement Officer, the Zoning Board of Appeals shall decide any questions involving the

interpretation of any provision of this Ordinance including determination of the exact location of any district boundary, if there is uncertainty with respect to interpretation of the Ordinance.

14.5.2 Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power in passing upon appeals, to vary or modify in accordance with Paragraphs(A) and (B) below the application of any of the regulations or provisions of this Ordinance relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit and purpose of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. Two types of variances, use or area, may be granted with or without conditions or Performance Standards by the Board.

A) Use Variance. A Use Variance is one which addresses use of property for purposes other than those permitted by this Ordinance. No such use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- 1.) that the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

- 2.) that the alleged hardships relative to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - 3.) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - 4.) that the alleged hardship has not been self-created.
- B) **Area Variance.** An area variance is one which addresses matters of practical difficulties in meeting the requirements of this Ordinance such as side lot distances, frontages, set backs, etc. In making its determination on an application for an area variance, the Zoning Board of Appeals must consider the following:
- 1.) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - 2.) whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
 - 3.) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
 - 4.) whether the requested area variance is substantial; and
 - 5.) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of an area variance.

14.5.3 Procedure for Appeals.

- 1) The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and this Ordinance. All applications for variances or interpretations shall be made to the Board of Appeals.
- 2) Every appeal or application shall refer to the specific provision in the Ordinance involved and shall exactly set forth the interpretation that is claimed, the use or interpretation for which the special consideration is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.
- 3) Variances granted must be the minimum variance that will accomplish the purpose for which sought.
- 4) In granting any such variance, the Zoning Board of Appeals may prescribe reasonable terms or conditions, as are directly related to and incidental to the proposed use of the property.
- 5) Reasons for granting or denying variances shall be fully set forth in the written findings supported by documentary evidence for or against.
- 6) Notices of public hearings, as required by law, shall be placed in the official newspaper designated by the Town at least five (5) days before the date of the said hearing.
- 7) At least ten (10) days prior to the date of public hearing as required by law, the clerk shall notify all property owners within 500 feet of the parcel where an area variance is proposed and all property owners within 1000 feet of a parcel where a use variance is proposed as measured in all direction from the property boundaries. The notice shall state the nature of the proposed variance and the place, date and time of the hearing.

- 8) The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article Eight (8) of the Environmental Conservation Law and its implementing regulations as codified in Title Six, part Six Hundred Seventeen of the New York codes, rules and regulations.
- 9) Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Town Clerk and mailed to the applicant within five (5) business days.
- 10) Decisions by the Zoning Board of Appeals may be rendered immediately following the public hearing or in any event within sixty-two (62) days after the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- 11) The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant and forwarded to the Town Board, Planning Board, Assessor and the Uniform Code Enforcement Officer.
- 12) The Zoning Board of Appeals may impose Performance Standards.

14.5.4 Home Occupation Business Permits. The Zoning Board of Appeals shall perform site plan review of all applications for Home Occupation Business Permits. No Home Occupation Business Permits shall be issued until the board finds that the proposed Home Occupation:

- 1.) is a bona fide Home Occupation;
- 2.) shall not adversely affect the character of the neighborhood, and the values of the surrounding properties;
- 3.) is conducted on the property by a person or persons residing therein, with not more than two (2) full-time paid assistants or employees or their equivalent;
- 4.) does not occupy more than twenty-five percent (25%) of the total floor area thereof used for residential purposes or fifteen hundred (1500) square feet of any accessory structure;
- 5.) does not require advertising display visible from the street, other than a small unlighted professional name plate not over eight (8) square feet in area and in compliance with this Ordinance;
- 6.) shall not create noise, dust, vibration, odor, glare, fumes, or electrical interference detectable by the normal senses of persons outside the Dwelling. In the case of electrical interference, there shall be no radio nor television disruption outside the Dwelling nor fluctuations in line voltages off the premises;
- 7.) provides for sufficient off-street parking; and
- 8.) a Public Hearing, if required, is conducted

14.5.4.1 Procedures for Applying for a Home Occupation Business Permit.

The application shall be made to the Office of the Uniform Code Enforcement Officer who will request that the Zoning Board of Appeals perform a site plan review. The application shall include the location of the proposed business and a sketch of the property on which the business will be conducted. The application shall also include: a detailed description of the proposed business, the number of employees, an estimate of the traffic that may be created during

business hours, and a description of the impacts the business may have on neighboring properties. At its discretion, the Zoning Board of Appeals may require additional information for completing its review.

14.5.4.2 Action and Timing.

Within (62) sixty-two days of receiving the application the Zoning Board of Appeals shall render its decision. The Zoning Board of Appeals may approve, approve with Performance Standards or modifications, or it may disapprove any application. Failure of the applicant to abide by the conditions or Performance Standards established may result in the revocation of the permit. The Home Occupation Permit does not run with the land. If a property is sold, leased or transferred the Home Occupation Permit expires.

14.6 PLANNING BOARD

Establishment and Organization. A Planning Board, as created by prior Zoning Ordinances of the Town of Duanesburg, is hereby confirmed. The Planning Board shall consist of seven (7) members and may include two alternates (See 14.8) who are all residents of the Town of Duanesburg, for a period of three (3) years prior to the effective date of appointment, and who are appointed by the Town Board, who shall also designate the Chairperson thereof, in such manner and for such terms as provided by NYS Town Law. The Planning Board shall prescribe the rules for the conduct of its affairs not inconsistent with this Ordinance or with Section 271 of NYS Town Law. Three successive non excused absences from regular or special meetings or four meetings total in a calendar year will be considered cause for removal by the Town Board. The Planning Board shall have all the power and duties prescribed by the New York State Town Law and this Ordinance. Nothing contained herein shall change the current composition and terms of the members and alternates of the current Planning Board.

Meetings and Records. The meetings of the Planning Board may be held at least once each month, and special meetings may be held by the Planning Board as necessary and upon the appropriate Public Hearing Notice.

All hearings of the Planning Board shall be open to the public to the extent provided in article seven of the Public Officers Law. The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every motion, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.

Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Planning Board shall be filed in the office of the town clerk within five business days and shall be a public record.

14.6.1 Powers and Duties.

- 1) While the Zoning Board of Appeals concentrates primarily on interpretation of this Ordinance, the granting of variances from this Ordinance, and interpretation of district boundaries, the Planning Board is focused broadly on review and approval of sub-divisions and commercial development, Special Use Permits and Site Plan Review as specified herein.

- 2) The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article (8) eight of the Environmental Conservation Law and its implementing regulations as codified in Title (6) six, part (617) six hundred seventeen of the New York codes, rules, and regulations.
- 3) The Planning Board is authorized and empowered by the Town Board to approve Plats showing lots, blocks or sites, with or without streets or highways, and to approve the development of entirely or partially undeveloped plats already filed in the office of the County Clerk.

14.6.1.1 Site Plan Approval. The Planning Board is authorized and empowered by the Town Board to review, approve, approve with Performance Standards or modifications or disapprove all site plans as hereinafter designated.

14.6.1.2 Applicability. Site Plan approval is required in the Town of Duanesburg for:

- a) All uses requiring a Special Use permit
- b) Those uses listed in each zoning district as requiring Site Plan approval.

14.6.1.3 Sketch Plan. A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board about the proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

- a) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, highway access, existing vegetation, proposed landscaping and other planned and significant natural features (e.g., streams, ponds, lakes, wetlands). Anticipated changes in the existing topography and other natural features should be identified.
- b) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features.
- c) A topographic or contour map of adequate scale and detail to show site topography.

14.6.1.4 Application. An application for site plan approval shall be made in writing to the Chairperson of the Planning Board on forms provided by the Uniform Code Enforcement Officer and shall be accompanied by information contained in the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference. The Site Plan shall be submitted in sufficient detail and appropriate scale to accurately locate the information listed below:

- 1) Title of drawing, including name and address of applicant and person responsible for preparation of drawing;
- 2) North arrow, scale and date;
- 3) Boundaries of the property plotted to scale. Rights- of- way and easements, where applicable, should be shown on this plot;

- 4) Existing watercourses, wetlands, flood plains, and bodies of water;
- 5) Grading and drainage outline describing existing and proposed contours; (contour intervals as determined by Planning Board.)
- 6) Location, outline of the proposed use, size and height of all buildings;
- 7) Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site;
- 8) Provision for pedestrian access;
- 9) Location and description of outdoor storage including temporary storage areas, if any;
- 10) Location, design and construction outline of all existing or proposed site improvements, including culverts, drains, retaining walls and fences;
- 11) Description of the method of sewage and waste disposal including location, and design of such facilities;
- 12) Description of the method of obtaining water and location, and design of the water system or systems;
- 13) Location of fire and other emergency zones, including the location of fire hydrants;
- 14) Location, and design of all energy facilities, (i.e. heating, air conditioning, electrical, etc.);
- 15) Location, size and design and construction materials of all proposed signs;
- 16) Location and proposed development of all buffer areas, including indication of existing vegetative cover;
- 17) Location and design of outdoor lighting facilities;
- 18) Designation of the amount of lot coverage proposed for retail or other commercial activity;
- 19) General landscaping plan and planting schedule;
- 20) Phased construction schedule for all elements of the project;
- 21) Current deed.
- 22) Other elements integral to the proposed development, as considered necessary by the Planning Board, including identification of any State or County permits required for the project's execution.
- 23) A visual and/or noise buffer for adjoining lands, including the maximum retention of existing vegetation.
- 24) Adequacy of fire lanes and other emergency zones.
- 25) Limits of land disturbance.
- 26) Show on Plan how the project meets all setbacks, lot coverage, parking and dimensional requirements.
- 27) Information on past uses of site and any potential for contaminated soil or groundwater to exist.
- 28) Stormwater Pollution Prevention-Erosion and Sediment Control (SWPPP) requirements.

14.6.1.5 Review of Site Plans. The Planning Board's review of site plans shall include, as appropriate, but not limited to, the following general considerations:

- a) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs;
- b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls;
- c) Location, arrangement, appearance and sufficiency of off-street parking and loading;

- d) Adequacy and arrangement of pedestrian access;
- e) Adequacy of storm water and drainage facilities;
- f) Adequacy of water supply and sewage disposal facilities; and
- g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting.

14.6.1.6 Action and Timing. Within sixty-two (62) days of the receipt of a complete application for site plan approval, the Planning Board shall render its decision. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board. The Board shall approve, disapprove, or approve the project with Performance Standards, modifications and/or conditions. A Public Hearing may or may not be required. The Board's action shall be in the form of a written statement for the record along with supporting documents deemed necessary. The applicant will be notified in writing of the decision and any conditions and Performance Standards attached thereto, within five (5) business days.

14.6.1.7 Performance Guarantee. The performance guarantee shall be the same as for special use permit. (See Section 14.6.2).

14.6.1.8 State Environmental Quality Review. The State Environmental Quality Review shall be the same procedure as that for the special use permit. (See Section 14.6.2).

14.6.1.9 Integration of Procedures. Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this Zoning Ordinance or other requirements of the Town, the Planning Board shall integrate, as appropriate, Site Plan review as required by this section with the procedural and submission requirements for such other compliance.

14.6.2 Special Use Permits. After due public notice and hearing and subject to appropriate conditions, Performance Standards and safeguards, the Planning Board may issue special use permits for any of the uses for which this Ordinance requires the obtaining of such permits.

No special use permit shall be granted until the Planning Board shall find and determine that:

- a) Such use is reasonably necessary or convenient to the public health, welfare or the economic or social benefit of the community;
- b) Such use is suitably located in relation to transportation, water and sewerage requirements of this Ordinance or, where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use;
- c) The character of the neighborhood and values of surrounding property is reasonably safeguarded;

14.6.2.1 Requirements. Special Use Permits are required in the Town of Duanesburg for:

- a) Major changes in product line or services for businesses previously granted a permit or classified as non-conforming.

- b) Those uses listed in the zoning districts as requiring a Special Use Permit, including those special events not customary to the nature of the business.
- c) All Mass Gatherings, which shall also require all other permits designated by any governmental authority having jurisdiction over such gathering.

14.6.2.2 Procedure for Applying for a Special Use Permit.

The procedure for applying for a Special Use Permit is divided into two phases: pre-submission conference and formal application.

- a) **Pre-Submission Conference.** The Uniform Code Enforcement Officer shall refer the Applicant requiring a Special Use Permit to the Planning Board who shall schedule a conference for the next regularly scheduled Planning Board meeting or sooner if deemed appropriate by the Planning Board. The purpose of the pre-submission conference is to give the Planning Board and the applicant an opportunity to gain a perspective of the impact on the zoning district, the neighborhood in which it is proposed, and the degree of complexity of the review. The conference is beneficial to both parties because the community will gain knowledge of the applicant's intent and the applicant will learn his or her rights and responsibilities before either is committed to significant outlays of time or capital.
 - 1) At the pre-submission conference the applicant shall provide the Planning Board with basic data regarding the proposed project. At a minimum the applicant shall provide a map showing the important existing natural and man-made features in and around the site and a sketch plan showing the major features of the proposal.
 - 2) At the conclusion of the pre-submission conference, or within ten (10) business days thereafter the Planning Board will provide the applicant with a check-off list describing the minimum elements required for processing the application. This list does not preclude later requests for additional information required to properly evaluate the project.
- b) **Formal Application Procedure.** Following the pre-submission conference a formal application for a Special Use Permit may be presented at the next regularly scheduled Planning Board meeting or sooner if deemed appropriate by the Planning Board.
 - 1) The application shall be submitted on forms furnished by the Uniform Code Enforcement Officer and be accompanied by a copy of the site plan. The site plan data and information shall include information drawn from a checklist provided and as determined necessary by the Planning Board at the pre-submission conference. Depending on the scope and complexity of the project, the Planning Board may require that the site plan be prepared by a licensed professional engineer, architect or land surveyor, all at the applicant's expense. The Application should state how it meets the Standards for a Special Use Permit set forth in Section 14.6.2

14.6.2.3 Information Required.

A general and complete description of the proposed Special Use, together with a Site Plan prepared in accordance with Section 14.6.2 Site Plan Approval.

14.6.2.4 Planning Board Formal Review.

The Planning Board conducts a formal review of the site plan data prior to action on the Special Use Permit.

- a) Within sixty-two (62) days after receipt of the completed application and all required site plan data and information, the Planning Board will conduct a public hearing. The notice of the public hearing shall be published at least five (5) days prior to the date of the hearing in the official newspaper designated by the Town.
- b) In addition to holding a public hearing, the Board will notify by mail at least ten (10) days prior to the public hearing all adjacent property owners within 1000 feet, as measured in all directions from the property boundaries.
- c) The Board's detailed review of the application elements for the planned use shall be in such depth and detail to determine that:
 - 1. the proposal is subject to the State Environmental Quality Review Act and, if so, to initiate the process in accordance with Section 14.6.2.7;
 - 2. the proposed use will not have a significant negative effect on existing adjacent land uses;
 - 3. the arrangement of pedestrian traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic control, is adequate;
 - 4. the location, arrangement, appearance and sufficiency of off-street parking and loading is satisfactory;
 - 5. the location, arrangement, size, design and general site compatibility of buildings, lighting and signage is satisfactory;
 - 6. the storm water and drainage facilities are adequate;
 - 7. the water supply and sewage disposal facilities are adequate;
 - 8. the type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation are adequate;
 - 9. performance Standards, if necessary are imposed to ensure protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features;
 - 10. the Fire lanes and other emergency zones and the availability of fire water, water points or hydrants are adequate; and
 - 11. building appearance is compatible with existing neighboring structures.

14.6.2.5 Action Timing and Sequences.

Within sixty-two (62) days of the public hearing on the application for a Special Use Permit, the Planning Board shall act on it. The decision of the Planning Board may be rendered immediately after the public hearing if deemed appropriate by the Board. The Planning Board may impose Performance Standards. The Planning Board shall provide copies of the applicant notification letters to the Uniform Code Enforcement Officer, Town Clerk, and the Zoning Board of Appeals within five (5) days where applicable. A copy of the site plans will be retained as the official Town record.

Expiration. A Special Use Permit shall become void one year after approval unless a building permit is issued and construction has begun within such time and diligently pursued to completion or, by conditions or Performance Standards of the use permit, greater or lesser time is specified as a condition of approval.

Amendment. Following completion of the development or establishment of the use as authorized by a special use permit, no such use shall be expanded unless the special use permit is amended pursuant to the procedures established herein.

14.6.2.6 Performance Guarantee.

The Planning Board may require a bond or other performance or payment guarantee by the Developer for all or portions of any project.

The sufficiency of such performance and payment guarantee shall be determined by the Planning Board after consultation with the Uniform Code Enforcement Officer and the Town Engineer, and the Town Attorney, as necessary.

No Certificate of Occupancy shall be issued for the approved use until all improvements and conditions required by the Planning Board are in place and verified by the Uniform Code Enforcement Officer, Town Engineer, and Town Attorney, as necessary.

14.6.2.7 State Environmental Quality Review.

The Planning Board will cause to be completed by the Developer and the Board a Short (Section 617.21), Long (Section 617.2, Appendix A) Environmental Assessment Form or such other documents as are appropriate for each site plan reviewed by the Board. These forms will be maintained in the applicant's file.

14.6.2.8 Fee Schedule.

A fee schedule will be established by the Town Board, subject to amendment.

14.6.3 Performance Standards, Generally

The Planning Board under its powers of site plan review and special use permit approval shall determine whether a proposed use can meet the required Performance Standards established by the Planning Board. Failure to operate in compliance with these standards shall be a violation of the Zoning Ordinance. Enforcement of continued compliance is the responsibility of the Uniform Code Enforcement Officer. The Uniform Code Enforcement Officer shall investigate any purported violation of Performance Standards. All violations as ascertained by the Uniform Code Enforcement Officer shall be cured within (30) thirty calendar days of notification of the user and owner. Failure to comply shall subject the violator to the penalties specified in Section 15 of the Zoning Ordinance.

14.6.3.1 Specific Performance Standards. In the Town, uses are not permitted which exceed the following standards measured at individual property lines. The Planning Board under its powers of site plan review and approval shall decide whether uses meet the standards. Uses shall meet State environmental standards and shall not:

1. Emit noise in excess of 70 decibels, dBA scale, of a standard sound level meter.
2. Emit odor, which is considered offensive.
3. Emit dust or dirt, which is considered offensive.
4. Emit noxious gases, which endanger health, comfort, safety, or welfare of any person, or have a tendency to cause injury or damage to property, business or vegetation.
5. Cause, as a result of normal operation, a vibration, which creates displacement of 0.003 of one inch at the property line.
6. Create glare by lighting or signs which could impair a driver's vision
7. Cause a fire, explosion or safety hazard.
8. Cause harmful waste to be discharged into sewer, streams, or bodies of water, or to be stored on said property.

15.7 Retention of Experts; Payment.

The Zoning Board of Appeals and the Planning Board are hereby authorized to retain engineering consultants and/or such other expert consultants as are determined to be necessary to

enable the full performance of the duties of the respective Boards relative to any matters before it.

Payment for the services of such consultants and/or engineers is to be made from funds deposited by the applicant with the Town in escrow accounts established by the Town for such purpose. The expert consultant and/or engineer shall provide an estimate, including the number of hours and rate per hour, for the cost of service to be rendered to the Town. The amounts deposited by the applicant will be based on these estimates. The estimates shall be reviewed and approved by the Uniform Code Enforcement Officer and should be fair, in line with costs in other communities, specific to the services requested by each Board, and based on previous experience. The Uniform Code Enforcement Officer will notify the applicant of the amount required. The estimate and the escrow deposit may be increased if required.

It shall be the responsibility of the applicant to submit to the Town, at such time as directed by each Board, certified or bank check(s) in the amounts equal to the approved estimate of the expert consultant and/or engineer for the cost of services to be rendered to the Town. The Town shall release money to said consultant and/or engineer in payment for the services rendered to it upon acceptance by the Town of said services. The consultant and/or engineer shall provide an itemized bill showing date(s) service was rendered, associated hours, and rate.

15.8 Alternate Members of the Zoning Board of Appeals and the Planning Board

In order to permit the Zoning Board of Appeals and the Planning Board to transact business in the event that absence or conflicts of interest or illness preclude any of the regular members from considering a particular matter, it is deemed advantageous for the Town Board to appoint alternate members to serve on these boards. Therefore the Town Board may appoint alternate members to the Zoning Board of Appeals and the Planning Board to serve as provided in this section.

1. Two alternate members shall be appointed to each board.
2. Alternate members shall be appointed to serve for a period of two years. The terms of the appointment shall be effective on January first (1st) of the year of the appointment and shall end two years later on December thirty first (31st).
3. The Chairperson of the Zoning Board of Appeals or the Planning Board shall assign the alternate members as necessary when absence of regular members of the Board, or conflict of interest of regular members of the Board, or disability of regular members of the Board, would prevent regular members of the Board from considering any impending matter.
4. Once designated to serve on a particular matter before the Board, the alternate members shall have the same powers and duties as regular members of the Board. Any determination of the Board consisting of alternate members shall have the same weight and be entitled to the same authority as the act or deed of the regular Zoning Board of Appeals or the Planning Board and all laws, statutes and regulations shall apply and be applied with equal force and effect.
5. Alternate members may be in attendance at all meetings, but may not participate in an official capacity in any Board activity in which all members are present and able to act.
6. Alternate members serving on the Board after appointment by the Chairperson shall be paid for their services in the same manner as regular members are paid.

SECTION 15

Enforcement

15.1 Designation of Enforcing Official

This section shall be administered and enforced by the Uniform Code Enforcement Officer, hereinafter referred to as the "Official", duly appointed by the Town Board of Duanesburg to carry out the word and intent of this section.

15.2 Duties of Enforcing Official

- A. **Rules, regulations, and forms.** The Official shall have authority to make, adopt and promulgate written rules, regulations and forms as may be necessary for administration and enforcement of the content and intent of this section. The Official shall be responsible to submit such rules, regulations and forms to the Town Board, which shall move to approve, reject or modify the same within sixty (60) days after submission. Once approved by the Town Board and filed with the Town Clerk, rules, regulations and forms shall have the same force and effect as the provisions of this section and be subject to the same penalties for violation thereof.
- B. **Entry and Inspection.** The Official shall have the right to enter upon, examine and inspect or cause to be entered, examined and inspected any building or property for the purpose of carrying out the provisions of this section after reasonable written notice of intent to examine or inspect has been provided to a property owner and permission of the owner has been granted. If such permission is denied, access may be pursued by the Town Attorney, who shall be notified in writing by the Official.
- C. **Referral to the Planning Board, Town Board and Zoning Board of Appeals.** The Official shall inform any applicant of the appropriate town agency to whom the application should be presented prior to the issuance of a building permit, in accordance with this section and all other state, county and local laws and regulations.
- D. **General Duties and Powers.** The Official shall be charged with the general and executive administration of this section and shall have the following general duties and powers:
 - 1. To oversee and enforce all provisions of this section and all rules, conditions and requirements adopted or specified pursuant thereto.
 - 2. To record all identifiable complaints or violations of any provision of this section
 - 3. To file a report with the Town Board at monthly intervals, summarizing his activities for the period since the most recent previous report, listing all complaints of violations and subsequent action taken on each such complaint.
- E. **Appearance Tickets.** In addition to any and all other authority vested in the official by state law and this section, the Official is hereby authorized and empowered to issue appearance tickets, in a form to be approved by the Town Board, for the prosecution of all violations of this section. Following the filing of an information, the Official shall have the authority to appear at any and all actions and proceedings in furtherance of said prosecution in any court of competent jurisdiction.

15.3 Conflicts with other provisions.

This section shall be administered and enforced in tandem with all other applicable town, county, state and federal laws.

15.4 Procedure and Penalties for Offenses.

Whenever, in the opinion of the Official after proper examination and inspections, there appears to exist a violation of any provision of this section or of any rule or regulation adopted pursuant thereto, the Official shall serve a written notice of violation upon the owner or occupant of the premises by personal service or certified mail; if to the owner, at the tax billing address, if to the occupant, at the property address.

- A. **Notice of violation.** Such notice of violation shall inform the recipient of:
 - 1. The nature and details of such violation.
 - 2. Recommended remedial action, if possible, which, if taken, will effect compliance with the provisions of this section and with rules and regulations adopted pursuant thereto.
 - 3. The date of compliance by which the violations must be remedied or removed.
 - 4. The right to a hearing before the official in accordance with Subsection C below.
- B. **Extensions.** The Official may extend the date of compliance in a notice of violation, after written application, if, in his opinion, there is reasonable evidence of intent to comply and reasonable conditions exist which prevent compliance by the specified date.
- C. **Request for hearing.** Any person served with a notice of violation in accordance with Subsection A above and who denies the violation or is allegedly aggrieved by the required action necessary for compliance may, within ten (10) days after service of notice, request, in writing, a hearing before the Official stating the reasons why such a hearing is requested. The person requesting the hearing shall be required to show cause or give evidence why he should not be required to remedy the violation or why he is unable to comply with the remedial action outlined in the notice of violation.
- D. **Abeyance.** Compliance with a notice of violation shall not be required while a hearing is pending.
- E. **Hearing.** Within ten (10) days after receipt of a request for a hearing, the Official shall acknowledge receipt, in writing, and set a time and place for such hearing, not later than thirty (30) days after the date the request is received. Hearings may be postponed beyond thirty (30) days by the Official for just cause, and notice of postponement shall be served.
- F. **Findings.** After consideration of all testimony given at the hearing held in accordance with Subsection E above, the Official shall sustain, withdraw or modify the notice of violation as originally served. If such notice is sustained or modified, the Official shall set a new compliance date by which the violation shall be remedied or removed in accordance with the original notice of violation or modified remedial action specified at the hearing.
- G. **Certificate of Compliance.** Upon re-inspection, following the expiration of the date of compliance as specified in the notice of violation or modification thereof, if the violation has been remedied or removed in accordance with the specified remedial action and there is no longer a violation of any provision of this section, then a certificate of compliance shall be issued by the official.

- H. **Legal Action by the Town for Noncompliance.** Upon re-inspection following the expiration of the date of compliance as specified in the notice of violation or as extended in accordance with Subsection B above, if the remedial action specified has not been carried out and there is still in existence, in the opinion of the Official, a violation of a provision of this section, or, upon refusal to permit such re-inspection, then the Official shall immediately issue an appearance ticket and notify the Town Attorney, who shall, if necessary, take appropriate legal action to restrain, prevent, enjoin, abate, remedy or remove such violation and take whatever other legal action is necessary to compel compliance with this section.
- I. **Apartment\Multifamily Dwellings without Certificates of Occupancy.** In situations where no building permits were obtained, and Certificates of Occupancy were not issued, the following procedure will be followed by the Uniform Code Enforcement Officer:
1. Issue citation to the property owner for building code violation.
 2. Advise the Town Assessor to determine if back taxes are due.
 3. Determine if a variance, Subdivision or Special Use Permit is required in accordance with the Zoning and Subdivision Ordinances. If a Variance, Subdivision, or Special Use Permit is required, refer to the proper Board. If an apartment was created before this Zoning Ordinance was adopted, a Special Use Permit may not be required. The burden of proof lies with the property owner.
 4. Determine if Building and/or Sanitary Codes are involved and the action required.
 5. Make inspections to the extent practical. The inspections shall be made at the owner's expense. A building permit shall be obtained for any corrective action to be taken. Any corrective action required to meet Code(s) shall be made at the owner's expense.
 6. After all code requirements have been satisfied to the extent practical based on the results of the inspections, issue a Conditional Certificate of Occupancy clearly stating it was issued based on "WALK THROUGH INSPECTION ONLY".
 7. Pursue the resolution of the citation with penalties determine by a schedule adopted by the Town Board.

J. **Penalties.**

1. Any person who shall violate or cause to be violated or assist in the violation of any provision of this section shall be subject to conviction of an offense by a proper court and be subject to a fine of not less than one hundred dollars (\$100.00), not more than three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed fifteen (15) days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of three (3) years, such person shall be subject to a fine of not less than three hundred fifty dollars (\$350.00), nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed fifteen (15) days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, such person shall be subject to a fine of not less than seven hundred dollars (\$700.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon the courts and judicial officers, generally, the first and second offenses shall be violations and third and subsequent offenses shall be misdemeanors for such purposes and all provisions of law relating to Penal Law violations and Penal Law misdemeanors shall apply.

2. The term "person," as used in this subsection, shall include an owner, occupant, tenant, vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of a building property or part thereof.
3. Failure to timely comply with any court mandated action shall constitute a separate and distinct offense.

SECTION 16

Amendments

The Town Board may, from time to time, on its own motion or on petition or on recommendation of the Zoning Board of Appeals, or Planning Board, and after public notice and hearing, amend, supplement, change, modify or repeal this Ordinance, pursuant to the provisions of the New York State Town Law applicable thereto. Every such proposed amendment shall be referred to the Planning Board for review and comment. Any amendment shall, within ten (10) days of effective date, be incorporated in the text of the master copy of the Zoning Ordinance and all undistributed copies held for sale. The Records Management Officer shall be responsible for said incorporation and sale.

SECTION 17

Severability

If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of provisions thereof other than the part so declared to be invalid or unconstitutional.

SECTION 18

Exceptions

Nothing within this Ordinance shall require any duly established municipal, educational, historical, firefighting, recognized fraternal or civic order or religious organization or institution located in the Town or political party qualified for a line on the ballot in a general election to apply for or obtain a special use permit with regard to gatherings or assemblages designed for the furtherance of its purposes, including fund raising, except when they act as sponsor(s) for a public assemblage which is not their own operation or affair. Public gatherings or assemblages in conjunction with an existing permitted building or use by any duly established municipal, educational, historical, fire-fighting, recognized fraternal or civic order or religious organization or institution located in the Town or political party qualified for a line on the ballot in a general election shall not be prohibited in any district. Nothing within this Section 18 shall negate the applicability of and requirements of a Public Assemblage Law adopted by the Town of Duanesburg.

SECTION 19

Effective Date

This Amendment to the Ordinance shall become effective by its publication and posting in accordance to the applicable sections of the laws.