



SUBDIVISION ORDINANCE
TOWN OF DUANESBURG

TOWN OF DUANESBURG, NEW YORK

ADOPTED March 9, 1995

Prepared By The:

Schenectady County Planning Department

And

Town of Duaneburg Planning Board

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TOWN OF DUANESBURG
SUBDIVISION ORDINANCE

ARTICLE 1 LEGISLATIVE AUTHORITY AND PURPOSE

Section 1.1 Legislative Authority

The Town Board of the Town of Duaneburg, in the County of Schenectady and the State of New York, under authority of the Town Law, Section 276 of Chapter 82 of the Consolidated Laws, Article 16 of the State of New York, hereby enacts and adopts these regulations entitled the "Subdivision Ordinance of the Town of Duaneburg".

Section 1.2 Purpose

The purpose of the provisions of this Ordinance is as follows:

1. To promote and protect the public health, safety and welfare.
2. To promote orderly, efficient, integrated and harmonious development in the Town.
3. To require sites suitable for building purposes and human habitation in keeping with the standards of quality existing in the township and to alleviate peril from fire, flood, erosion, excessive noise, smoke or other menace.
4. To coordinate proposed streets with existing or proposed streets, parks or other features of the Comprehensive Plan and to provide for drainage, water supply, sewage disposal and other appropriate utility services.
5. To encourage preservation of adequate open spaces for recreation, light and air and maintenance of the natural amenities characteristic of the Town and residential, commercial and public areas.
6. To ensure conformance of subdivision and land development plans with the Comprehensive Plan and public improvement plans and to ensure coordination of intergovernmental public improvement plans and programs.

7. To secure equitable treatment of all subdivision and land development plans by providing uniform procedures and standards.
8. To ensure that developments are environmentally sound by requiring preservation of the natural features of the areas to be developed to the greatest extent practicable, to maintain the economic well being of the Town and to prevent unnecessary or undesirable blight, runoff and pollution.

ARTICLE 2 DEFINITIONS

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this section:

1. Building Line - The line which establishes the minimum depth of front yard measured from the right-of-way line.
2. COMMUNITY FACILITIES - Buildings, parks, playgrounds or public works owned or operated by the Town, buildings or playgrounds owned or operated by the Duaneburg School District, fire stations, and ambulance garage.
3. COMPREHENSIVE PLAN - The plan, consisting of maps, charts and textual matter for the continuing development of the Town of Duaneburg.
4. COUNTY - Schenectady County.
5. CUL-DE-SAC - A street with one (1) end open for public vehicular and pedestrian access and the other end terminating in a vehicular turnaround.
6. DEVELOPER - Any landowner or other person who, with permission from the landowner, files application to make, cause to make, or causes to be made, a subdivision of land or land development. Written evidence of authority to act for the landowner shall be filled with the application or plan when signed by a person other than the landowner.

7. DRAINAGE RIGHT-OF-WAY - The land required for the installation and/or maintenance of storm sewers, drainage ditches or retention basins.
8. DWELLING UNIT - Any structure or part thereof designed to be occupied as living quarters as a single housekeeping unit.
9. EASEMENT - Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.
10. FINAL PLAT - A drawing, in final form, showing a proposed subdivision containing all information or detail required by these regulations to be presented to the Planning Board for approval, and which, if approved, may be filed by the applicant in the office of the County Clerk.
11. IMPROVEMENT - Includes buildings, grading, paving, restoration of existing paving damaged by construction, walkways, curbs, gutters, street signs, fire hydrants, water mains, gas mains, sanitary sewers, on-site sewage disposal facilities, storm drainage facilities, retention basins, bridges, sidewalks, crosswalks, monuments, street shade trees, buffer planting and streetlights.
12. LOT - A parcel or portion of land separated from other parcels or portions, for purposes of sale, lease or separate use by means of a description as indicated by a subdivision plat, a recorded map or deed or by metes and bounds or separated by a public street right-of-way.
13. MAINTENANCE GUARANTY - Any security which may be required of a developer by the Town after the final acceptance by the Town of improvements installed by the developer. Such security may include but is not limited to maintenance bonds, surety agreements or other collateral.

14. MAJOR SUBDIVISION - Means any division of a tract, whether by deed, metes and bounds description, device, map, plat or other recorded instrument, into more than two (2) lots or parcels therefrom, or, any division of a tract into two (2) or more lots or parcels requiring a new street, or a substantial improvement to an existing street, or an extension of a street or a municipal facility.
15. MINOR SUBDIVISION - Means any subdivision containing only two (2) lots fronting on an existing street, not involving any new street or road or extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Zoning Ordinance.
16. PERFORMANCE GUARANTY - Any security which may be required of a developer by the Town in lieu of a requirement that certain improvements be made before the Town approves the developer's subdivision plan or land development plan. Such security may include but is not limited to performance bonds, escrow agreements, surety agreements or other collateral.
17. PLANNING BOARD - The Planning Board of the Town of Duanesburg.
18. PRELIMINARY PLAT - A drawing prepared by a licensed professional land surveyor or professional engineer marked "preliminary plat" showing the important features of a proposed subdivision, as specified in Section 7.2 of these regulations, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and of sufficient detail to advise the Planning Board of the layout of the proposed subdivision.
19. RECREATION FEE - A fee charged to the owner or developer of a subdivision for park and recreation use in lieu of the dedication of land for that purpose as called for in Section 6.8 of these regulations.
20. SKETCH PLAN - A sketch of proposed subdivision showing the information specified in Section 3.3.2 of this Ordinance, to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and

objectives of these regulations.

21. STATE - The State of New York.
22. STORM DRAINAGE AREA - The area of land surface, expressed in acres or a percentage thereof, which slopes in such a manner so as to carry the precipitation which flows over the land surface, during and for a short time after a storm, to a common low point.
23. STREET - All property within the right-of-way lines of any public roadway, thoroughfare or highway.
24. STREET, COLLECTOR - A street designed to serve as a traffic way for a neighborhood or as a feeder to a major street.
25. STREET, JOG - An abrupt, temporary change of direction in a street.
26. STREET, DEAD-END - A street with only one (1) outlet for vehicles.
27. STREET, LOCAL - A street intended to provide access to abutting properties in areas where residences are frequent.
28. STREET, MAJOR - A through street designed to serve heavy flows of traffic, used primarily as a route for traffic between communities.
29. STREET, MINOR - Local routes designed to connect major streets, not intended to carry through traffic.
30. STREET, WIDTH - Means width of right-of-way measured at right angles to the center of the street.
31. SUBDIVIDER - Any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.
32. SUBDIVISION - The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, for lease, transfer of ownership or building or lot development.

33. TOWN - The Town of Duquesburg.
34. TOWN BUILDING INSPECTOR - The Building Inspector of the Town of Duquesburg or a duly appointed representative thereof.
35. TOWN ENGINEER - A licensed Professional Engineer or firm engaged by the Town to review plans for design conformity to the Subdivision Ordinance and to inspect and improve improvements installed by the subdivider in a subdivision.
36. TRACT - Any body of land including contiguous parcels which is owned by the person or group of persons acting in concert as part of a common scheme or plan. For the purposes of these subdivisions regulations, any body of land under common ownership bisected by one or more public streets shall be considered as a single tract.
37. WATERCOURSE - Any natural or artificial swale, stream, channel, drain, or culvert in which water flows continuously or intermittently.
38. WETLANDS - Bodies of land officially defined as wetlands by the New York State Department of Environmental Conservation.

ARTICLE 3 PLATTING PROCEDURES

Section 3.1 Compliance Required

No subdivision or land development of any lot shall be effected, and no street, alley, sanitary, sewer, storm drain, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon, except in accordance with the provisions of this chapter.

No lot in a subdivision or land development may be sold, leased, mortgaged or otherwise transferred; no permit to erect any building on land in a subdivision or land development may be issued; and no building may be erected or lot development effected in a subdivision or land development, unless and until a subdivision plan or land development plan has been approved and, where, required, recorded, and until the required improvements in connection therewith have either been constructed or the Town has been assured, by means of a proper performance guaranty in the form of a bond or the deposit of funds or securities in escrow sufficient to cover the cost of the required improvements, as estimated by the Town, that the improvements will subsequently be installed.

Section 3.2 Official Submission of Plats.

The date of submission of all plats shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which, the completed application for subdivision approval and required fee shall be filed with the Town Building Inspector.

Section 3.3 Pre-Application Review

.1 Requirements and Classification. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board in order to discuss the intent and application of these regulations. At least ten (10) days prior to any regularly scheduled meeting, the subdivider shall submit to the Town Building Inspector ten (10) copies of a sketch plan of the proposed subdivision as required by Section 3.3.2. (below). Within thirty (30) days of meeting with the subdivider, the Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

A subdivision may contain features of a technical nature which are such that the review and opinion of a licensed professional engineer may be required. The Planning Board may engage such licensed professional engineer who for the purposes of this Ordinance becomes the Town Engineer for this subdivision. The subdivider shall reimburse the Town for the fees charged by the Town Engineer and no plat shall be given final approval until such fees are reimbursed.

The Planning Board shall determine whether the sketch plan illustrates a major or a minor subdivision, as defined by these regulations. The Board may require, however, that a Minor Subdivision comply with all or some of the requirements specified for Major Subdivisions, when it is deemed necessary for protection of the public, health, safety and welfare. If the sketch plan is classified as a Minor Subdivision, the subdivider shall then comply with the procedure outlined in Section 3.4 of these regulations. If the application is classified as a Major Subdivision, the subdivider shall then comply with the procedures outlined in Section 3.5.

.2 Sketch Plan. The sketch plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The sketch plan shall be submitted showing the following information.

- a) A key map at a scale of one (1) inch equals two thousand (2,000) feet, showing the location of the proposed subdivision in relation to major streets, streams and municipal boundaries.
- b) All existing structures, wooded areas, streams, existing bodies of water, easements, wetlands, railroads, cemeteries, drainage ditches, and other significant physical features, within the portion to be subdivided and within two hundred (200) feet thereof.
- c) All the utilities available and property, and all streets which are either proposed, mapped or built.
- d) Contour lines at intervals of not more than ten (10) feet.
- e) The location of any of the one hundred (100) year floodplain limit as shown on the HUD Flood Insurance Map.
- f) The layout and approximate dimensions and area of lots (including lot width and depth and area), street layout, recreation areas, systems of drainage, sewerage utilities, and water supply (see Section 6.6), within the subdivided area. Proposed building locations;

the applicable zoning requirements for lot area, width, side, front and rear yards, with an indication that each lot is equal to or in excess of these requirements; the location of zoning district boundary lines affecting the subdivisions; and indication of any lots in which other than a residential use is intended.

- g) The name of the owner and applicant(s) and the names of all abutting owners adjacent to or for five hundred (500) feet along the road.

Section 3.4 Approval of Minor Subdivisions

1. Application and Fee. Within six (6) months after classification of the sketch plan as a Minor Subdivision by the Planning Board, the subdivider shall submit an application for approval of a Minor Subdivision Plat. The application shall be in the form of the "Town of Duaneburg Application for Subdivision Review, Minor Subdivision" available at the office of the Building Inspector. Failure to submit such application shall require resubmission of the sketch plan to the Planning Board for reclassification. The Plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall conform to the requirements listed in Section 7.1 of this Ordinance.

All applications for Plat approval for Minor Subdivisions shall be accompanied by a fee according to the "Schedule of Fees" established by the Town Board.

2. Required Information. Ten (10) copies of the Minor subdivision Plat shall be submitted to the Town Building Inspector not less than ten (10) days prior to the Planning Board's regularly scheduled meeting. The Planning Board, in review of the Minor Subdivision Plat, may require the subdivider to supply additional information, including the Environmental Assessment Form to satisfy the requirements of the State Environmental Quality Review Act.

3. Approval of the Minor Subdivision Plat. A public hearing shall be held by the Planning Board within sixty-two (62) days from the date of submission of the Plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days prior to the hearing. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Minor Subdivision Plat. Within sixty-two (62) days from the date of the hearing, the Planning Board shall approve, with or without modification, or disapprove the Subdivision Plat.

Section 3.5 Approval of Major Subdivisions

1. Application and Fee. Within six (6) months after the classification of the sketch plan as a Major Subdivision and the Planning Board's preapplication review, and prior to the filing of an application for the approval of a Final Major Subdivision Plat, the subdivider shall file an application for the approval of a Preliminary Plat of the proposed subdivision. The application shall be in the form of the "Town of Duaneburg Application for Subdivision Review-Major Subdivision", available at the office of the Building Inspector. Such Preliminary Plat shall in all respects comply with the requirements set forth in the provisions of Section 276 and 277 of Town Law, except where a waiver may be specifically authorized by the Planning Board. The application shall be accompanied by a fee according to the "Schedule of Fees" established by the Town Board.

2. Required Information. Ten (10) copies of the Preliminary Plat, in the form described in Section 7.2 of this Ordinance, shall be submitted to the Town Building Inspector not less than ten (10) days prior to the Planning Board's regularly scheduled meeting. The Planning Board, in review of the Preliminary Plat, may require the subdivider to supply additional information.

3. Review and Study of Preliminary Plat. The Planning Board shall study the practicability of the Preliminary Plat taking into consideration the best use of the land, the requirements of the Town, and the impact of the proposed use. Particular attention shall be given to:

- The arrangement, location, and width of streets.

- The capacity of soils, slope, topography, and other natural features to sustain the subdivision and resultant development without substantial harm to the quality of the natural and man-made environment.
- The adequacy of water supply, storm water drainage and sewage or septic disposal.
- The requirements of the Town Zoning Ordinance, septic disposal code and other applicable regulations.
- The impact on, and compatibility with, current and future development of adjoining land.

4. Approval of Preliminary Plat. A public hearing shall be held by the Planning Board within sixty-two (62) days from the date of submission of the completed preliminary subdivision plat. Such hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days prior to the hearing. The subdivider, or his fully authorized representative shall attend the meeting of the Planning Board to discuss the Preliminary Plat. Within sixty-two (62) days of this hearing, the Planning Board shall approve with or without modification, or disapprove such Preliminary Plat. Approval of the Preliminary Plat shall not constitute approval of the subdivision plat, but rather approval of the design as a basis for preparing the Final Plat. The record of the Planning Board shall state the ground (s) for disapproval, or if approved, the modification, if any, required for submission of the Final Plat. The applicant "and the Town Board" shall be notified in writing of the Planning Board's decision. Time limits stated herein may be extended by mutual agreement between the subdivider and the Planning Board.

When granting approval to the Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to (1) the modifications to the Preliminary Plat, (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare, (3) the amount of improvement or the amount of all bonds or performance guaranteed, which it will require as prerequisite to the approval of the Subdivision Plat. Prior to the approval of the Subdivision Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

5. Final Major Subdivision Plat Application and Fee. The subdivider shall, within six (6) months after approval of the Preliminary Plat, file with the Planning Board an application for approval of the subdivision plat in final form. The application shall be accompanied by a fee according to the schedule established by the Town Board. The Planning Board may refuse to approve the Final Plat if submitted more than six (6) months after the Preliminary Plat.

6. Required Information. The application for Final Plat approval shall include the original and ten (10) copies of the plat, in the form described in Section 7.2 of this Ordinance. The required fee, ten (10) prints of all construction drawings and one (1) true copy of all offers of lease, contract, covenants, and agreements shall be presented to the Building Inspector at least ten (10) days prior to the regular monthly meeting of the Planning Board.

7. Final Plat Endorsement by Other Authorities. The final subdivision plat shall be properly endorsed and approved by the New York State Department of Health with respect to all water and septic or sewer disposal facilities if required. Endorsement and the required approval from other Town, County and State agencies shall be secured by the subdivider before official submission of the final subdivision plat. Evidence of such approvals shall be required by and provided to the Planning Board.

8. Approval of Final Plat. Within sixty-two (62) days of the submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once (1) in a newspaper of general circulation in the Town at least five (5) days before such hearing, provided however, that when the Planning Board deems the Final Plat to be in substantial agreement with a Preliminary Plat approved under Section 3.5.4. of this Article, and modified in accordance with requirements of such approval if such Preliminary Plat has been approved with modification, the Planning Board may waive the requirements for such public hearing.

The Planning Board shall by resolution approve and authorize the signing of such plat, conditionally approve with or without modifications, or disapprove, the final plat. Such action must take place within sixty-two (62) days of its receipt by the Town Building Inspector if no hearing is held, or in the event a hearing is held, within sixty-two (62) days after the date of such hearing.

This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a Final Plat within the time prescribed therefore shall be deemed approval of the Plat.

With a resolution of conditional approval of such Final Plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. A copy mailed to the subdivider shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved Final Plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of the Final Plat shall expire one hundred-eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within the time. The Planning Board may extend the time in which a conditionally approved plat in final form must be submitted for signature, if in its opinion such extension is warranted by the particular circumstances thereof, for not to exceed two (2) additional periods of ninety (90) days each.

Section 3.5.9 Reapproval Upon Failure to Develop Plat. In the event that building permits and certificates of occupancy have not been obtained for any lots within an approved major subdivision within 8 years of the date of filing of the Final Plat with the Schenectady County Clerk, then no building permits or certificates of occupancy will be issued for the said lots in the approved subdivision until the subdivider has filed a new application with the Planning Board. That new application shall include a copy of the Final Plat as filed.

Upon review of that new application, the Planning Board shall reapprove the prior Final Plat with or without modification. In determining whether to require any modifications to the Final Plat, the Planning Board shall consider the development and needs in the neighborhood of the subdivided property since the approval of the Final Plat, and the current requirements of the Town, its citizens, other regulatory agencies, as well as the needs and requirements of any prospective purchasers of said lots.

ARTICLE 4 REQUIRED IMPROVEMENTS

Section 4.1 Improvements and Performance Bond

After the Planning Board grants final approval of the Subdivision Plat, but before any building permit can be issued for the construction of any building, the subdivider shall provide a guarantee to the Town for the completion of the required improvements in the form of either sub-paragraph .1 OR sub-paragraph .2 or .3 below:

1. In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements OR the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law and further, shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed, OR

2. The subdivider shall complete all required improvements to the satisfaction of the Town Engineer who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety, OR

3. The subdivider may make use of a "construction loan set-aside" or escrow agreement whereby the lender agrees to release amounts for completed improvements only with the authorization of the Town Engineer. Such escrow agreement shall be in a form satisfactory to the Town Attorney. At no time before completion of the required improvements, shall the balance remaining in the escrow account fall below the estimate of the Town Engineer of the amount necessary to complete the work plus then (10) percent. Releases from the escrow account shall be on such a schedule as agreed upon by the subdivider, the lender and the Town Engineer.

4. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and an "as built" drawing satisfactory to the Town Engineer has been submitted indicating the location of monuments and all underground utilities as actually installed. If the subdivider completes all required improvements according to sub-paragraph .2 or .3, then said "as built" drawing shall be submitted prior to a dedication resolution by the Town Board. If the subdivider elects to provide a bond or certified check for all required improvements as specified in sub-paragraph .1, such bond shall not be released until such a map is submitted and approved by the Town Engineer.

Section 4.2 Modification of Design of Improvements.

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may authorize modifications after consultation with the Chairman or the designated representative of the Planning Board, and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning board at their next regular meeting.

Section 4.3 Inspection of Improvements

At least five (5) days before commencing construction of required improvements, the subdivider shall notify the Town Engineer in writing of such construction schedule. The Town Engineer shall inspect the improvements during their construction and upon completion to assure that all Town specifications and requirements shall be met and to assure the satisfactory completion of improvements and utilities required by the Planning Board. The developer will be required to reimburse the Town for the cost of inspections and consultations by the Town Engineer.

Section 4.4 Proper Installation of Improvements

If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report in writing to the Town Board, Town Attorney, and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No future plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

Section 4.1.5 The Planning Board may permit improvements to be completed in stages within any subdivision. Said stages shall be clearly described, numbered in a sequential order and shown upon the Final Plat, and no building permit can be issued for the construction of any building upon any lots encompassed within a stage of the subdivision unless and until the guarantee required herein pursuant to subparagraph .1, .2 or .3 has been provided the Town for all improvements within that stage, and all prior stages.

ARTICLE 5 FILING OF APPROVED SUBDIVISION PLAT

Section 5.1 Final Approval and Filing

Upon completion of the requirements in Articles 3 and 4 above, and notation and signing of the Final plat by the duly designated officer of the Planning Board, the Plat may be filed by the subdivider in the Office of the County Clerk. Any subdivision plat not so filed or recorded within forty-five (45) days shall become null and void.

Section 5.2 Plat Void If Revised After Approval

No changes, erasures, modifications or revision shall be made in any approved Subdivision Plat unless said plat is first resubmitted to the Planning Board and such Board approves any modification.

ARTICLE 6 GENERAL REQUIREMENTS AND DESIGN STANDARDS

Section 6.1 Conformity With Other Applicable Provisions

All subdivisions and land developments shall conform to the requirements of the Town Zoning Ordinance, the Street and Road Ordinance of the Town of Duquesburg, the Comprehensive Plan, septic disposal code and all other applicable Town, County and State regulations.

.1 Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Dwelling units shall not be built on fill unless the fill and method of compaction are approved in writing by the Town Engineer.

.2 Street Rights-of-Way. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated thereupon.

.3 Special Requirements. The Planning Board may impose special requirements with respect to the design and installation of septic disposal, water, and storm water drainage systems, curbs, gutters and streets.

Section 6.2 Town Acceptance of Streets, Public Areas, Easements and Parks

Acceptance of formal offers of dedication of streets, public areas, easements and parks shall be by resolution of the Town Board. Approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the Town of any street, easement, or park shown on said plat. The Planning Board may require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for cost of improvements. No street shall be considered for acceptance unless and until it conforms with the Town's Street and Road Ordinance.

Section 6.3 Street Layout

.1 Width, Location and Construction. Streets shall conform to the Street and Road Ordinance and shall be of sufficient width, suitably located, and adequate to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

.2 Arrangement of Streets. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection and movement of traffic. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of streets. Grades of streets shall conform as closely as possible to the original topography.

.3 Local Streets. Local streets shall be so laid out that their use by through traffic will be discouraged. Dead-end or loop residential streets may be approved whenever the Board finds that such design will not interfere with efficient circulation.

.4 Subdivisions Along Major Streets or Highways. When a subdivision abuts or contains an existing or proposed major street or highway, the Board may require screen planting or landscaping in a non-access buffer along said major street or highway or such other treatment as may be necessary for adequate protection of residential properties.

.5 Street Names. All street names shown on a Preliminary Plat or Subdivision Plat, shall be approved by the Planning Board, and the Schenectady County Communications Director for coordination with 911 Emergency requirements. It shall be the responsibility of the Subdivider to contact the Schenectady County Communications Director, and to provide

proof to the Planning Board of County approval. Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets which join or are in alignment with streets of an abutting or neighboring property shall bear the same name.

Section 6.4 Lots

.1 Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions in securing building permits to build on all lots in compliance with the Town Zoning Ordinance, and other applicable regulations.

.2 Lot Dimensions. Lot dimensions shall comply with the minimum standards of the Town Zoning Ordinance. In general, side lot lines shall be at right angles to street lines unless a variation from this rule will give a better street or lot plan.

.3 Lot Drainage. Lots shall be laid out so as to provide positive drainage away from all building and individual lot drainage shall be coordinated with the general storm drainage pattern for the area.

.4 Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.

.5 Monuments and Lot Corner Markers. Permanent monuments meeting specifications approved by the Town as to size, type and installation, shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the Subdivision Plat.

Section 6.5 Drainage Improvements

.1 Removal of Spring Water, Surface Water, and Storm Water Runoff. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

.2 Drainage Structure to Accommodate Potential Development Upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the sub-

division. The Town Engineer shall approve the design and size of facility based on anticipated runoff from a "ten-year" storm under conditions of total potential development permitted by the Zoning Ordinance in the watershed.

.3 Land Subject to Flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

.4 Areas of Poor Drainage. Subdivision in areas of extremely poor drainage is to be discouraged, particularly where such conditions preclude efficient and safe on-site septic disposal.

.5 Grading. Lots shall be laid out and graded to provide positive drainage away from buildings. Wherever practicable, water should be drained to the street rather than to cross lots contained within the proposed subdivision or land development. Additional water caused by subdivision or land development may not be drained directly onto an adjoining property without the express written consent of the adjoining property owner. Whenever any person, firm, or corporation paves, fills, strips, grades or regrades any land, or disturbs, modifies, blocks, diverts or affects the natural land or subsurface flow of storm water, or constructs, erects or installs any drainage dam, ditch, culvert, drainpipe or bridge on any premises in the Town of Duanesburg, plans must be submitted to and approved by the Town.

Section 6.6 Reservoir Watershed Districts

Portions of the Town of Duanesburg fall within an area defined as the Delanson Reservoir Watershed District. Development within this area is subject to special limitations. The Building Inspector will provide, on request, the special design criteria relevant to the Watershed District.

Section 6.7 Preservation of Natural Features

.1 Every subdivision or land development plan shall be designed to preserve and protect the natural features of the land, including existing grades and contours, bodies of water and water courses, large trees standing alone or in groves, street shade trees and specimen trees, scenic and historic points, and other community assets.

The burden shall be on the developer to justify any

material changes in the natural features of the land by satisfactory proofs that subdivision or land development would not be feasible without such changes and that there are no practical alternatives. The fact that subdivision or land development would involve greater expense or less density because of the maintenance of certain natural features will not in and of itself be considered a justification of changes in such features.

.2 Preservation of the Community. To protect and maintain air and noise level quality, open space, aesthetic quality and the social and economic stability of all parts of the Town and to coordinate subdivision and land development with existing nearby neighborhoods, the Planning Board may impose reasonable buffer requirements when any of the following conditions may reasonably be expected to occur as a result of the proposed subdivision or land development:

- a) Substantial changes in the level or quality of air pollutants or the number of people affected by air pollution.
- b) Substantial changes in the level of noise or vibration or the number of people affected by noise or vibration.
- c) Substantial changes in the site views from near by premises or in the degradation of the privacy of nearby premises.

.3 Removal of Trees: Compensatory Planting. Every effort should be made to avoid removal of trees having a caliper of six (6) inches or greater at DBH (diameter of breast height) from the property in the process of subdividing, land developing, grading or installing improvements. Where, in the judgement of the Planning Board, such removal is unavoidable, the developer may be required to install trees in such locations and of such size, variety and quantity as the Planning Board shall direct.

Section 6.8 Parks, Open Space and Recreation

.1 Dedication of Land. The Planning Board may require that the Plat show sites of a character, extent, and location

suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the Plat.

The Planning Board may require that not less than one (1) acre of recreation space be provided per twenty (20) acres of land area subdivided. However, in no case shall the amount be more than ten (10) percent of the total area of the subdivision. Such area or areas shall be offered for dedication to the Town by the Subdivider.

.2 Required Information. In the event that an area to be used for a park or playground is required to be so shown, the subdivider shall submit, prior to final approval, to the Planning Board, three (3) prints drawn in ink showing, at a scale of not less than thirty (30) feet to the inch, such area and the following features thereof:

- a) The boundaries of the said area, giving lengths and bearings of all straight lines; radii, length, central angles and tangent distances of all curves.
- b) Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
- c) Existing, and, if applicable, proposed changes in grade and contours of the said area and of area immediately adjacent.

.3 Recreation Fee. In lieu of the dedication of land, the Planning Board may require, at its option, the payment of a recreation fee to be used by the Town to provide for capital improvements to park and recreation areas for all its residents. This fee, according to the schedule adopted by the Town Board and on file with the Town Clerk shall be paid before endorsement of the Final Plat by the Planning Board member designated to endorse the Plat.

Section 6.9 Plant Buffer

In the instance where the Planning Board determines that buffer planting is necessary to protect the general welfare of the public, planted buffers shall be installed to provide a year-round visual screen of such width, height, size, location, and planting material as approved by the Planning Board. The size, variety and planting design of the buffer area shall be as approved by the Planning Board.

Section 6.10 Modification of Applicable Provisions

Simultaneously with the approval of a plat or plats pursuant to this ordinance, the Town Planning Board may

authorize the modification of applicable provisions of the Zoning Ordinance to encourage flexibility of design and development of land in such a manner as to promote the most 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, in accordance with the provisions of Section 278 of the Town Law of the State of New York. This procedure may be followed at the discretion of the Planning Board, upon authorization by resolution of the Town Board, if the subdivider makes a written request for its application and the application of this procedure would, in the judgement of the Planning Board, benefit the Town.

Section 6.11 Protection of Agriculture from Potentially Incompatible Uses

1. Agricultural Buffers - Wherever agricultural uses and other uses unrelated to the agricultural operations abut, buffers shall be provided to reduce the exposure of these abutting uses to odors, noise, and other potential nuisances related to the agricultural operation. Provision of buffers shall be the responsibility of the proponent of the non-agricultural use, unless such use predates the agricultural use. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.

2. Required Disclosure Statement - In the case of any proposed residential subdivision that abuts agricultural uses, the Planning Board may require the applicant to issue a disclosure to potential purchasers of lots or dwelling units, informing such purchasers that living next to agricultural operations may on occasion subject them to unpleasant odors and noises and that the application of agricultural chemicals may occur on such agricultural land. This disclosure may be required as a note on a subdivision plat or site plan, along with a requirement that such disclosure be made in writing in a real estate listing sheet or contract of sale. The Planning Board may require that such disclosure statement be reviewed and approved by the Planning Board. This Section may also be applied to any subdivision involving a commercial development within the jurisdiction of the Planning Board which abuts agricultural uses, at the discretion of the Planning Board.

Section 6.12 Subdivisions Abutting Property Zoned for Commercial or Light Industrial Use.

1. In the case of any proposed residential subdivision the abuts property zoned for commercial or light industrial uses, the Planning Board may require the applicant to issue a disclosure to potential purchasers of lots or dwelling units, informing such purchasers that living next to businesses permitted in these zones may on occasion subject them to environmental conditions associated with the businesses. This

may include; noise, light, traffic, odors, etc. This disclosure may be required as a note on a subdivision plan or site plan, along with the requirement that such disclosure be made in writing in a real estate listing sheet or contract of sale. The Planning Board may require that such disclosure be reviewed and approved by the Planning Board.

ARTICLE 7. DOCUMENTS TO BE SUBMITTED

Section 7.1 Minor Subdivision Plat

In the case of Minor Subdivision ONLY, the Subdivision Plat application shall include the following information in addition to that noted in Section 3.3.2:

- 1) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- 2) If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system and lot layout with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted, shall be considered in the light of the entire holdings. The map shall be prepared by a professional Land Surveyor and certified.
- 3) All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and note to this effect shall be stated on the Plat.
- 4) The date, north point and map scale.
- 5) The location of property with respect to surrounding property and streets, the names of all adjoining property owners, or the names of adjoining developments as disclosed by the most recent tax records; names of adjoining streets.
- 6) The location of existing streets, easements, water bodies, streams, and other pertinent features such as wetlands, railroads, buildings, parks, cemeteries, drainage ditches and bridges.

Section 7.2 Major Subdivision Preliminary Plan and Accompanying Data

The Preliminary Plat for a Major Subdivision shall include the following information in addition to that noted in

Section 3.5.:

.1 General Requirements. The preliminary plat shall be prepared and certified by a licensed, professional Land Surveyor at a convenient scale not more than one (1) inch equals one hundred (100) feet. Size shall be not greater than thirty four by forty-four (34 x 44) inches.

.2 Features. The Major Subdivision Preliminary Plat shall show the following:

a) The location of property with respect to surrounding property and streets, the names of all adjoining property owners, or the names of adjoining developments as disclosed by the most recent tax records; names of adjoining streets.

b) The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.

c) The location of existing streets, easements, water bodies, streams, and other pertinent features such as wetlands, railroads, building, parks, cemeteries, drainage ditches and bridges.

d) The location and width of all existing and proposed streets and easements, alleys, and other public ways, and easement and proposed street rights-of-way and building set-back lines.

e) The locations, dimensions, and areas of all proposed or existing lots.

f) The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.

g) The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor.

h) The date of the map, approximate true north point, scale, and title of the subdivision.

i) Sufficient data acceptable to the Town Building Inspector to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments.

j) Proper names of the subdivision and all new streets.

k) Indication of the use of any lot (single-family, two-family, multifamily, town house) and all uses other than residential proposed by the subdivider.

l) Lots shall be numbered consecutively on a street in accordance with Emergency 911 regulations as required by the Schenectady County Communications Director. Lots shall be numbered from East to West and from South to North with odd numbers on the left and even numbers on the right. The Emergency 911 address or lot number shall become the Post Office address for that lot.

m) All information required on sketch plat should also be shown on the preliminary plat, and the following notation shall also be shown:

- i) Location and explanation of drainage easements, if any.
- ii) Location and explanation of site easements, if any.
- iii) Location and explanation of reservations, if any.
- iv) Location and endorsement of owner, as follows:
- v) Location of fire district boundaries of

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| | |
|--|--|

OWNER

DATE

.3 Additional Information. Accompanying the preliminary plat the following information shall be submitted:

a) If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system and lot layout with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings.

b) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract, including zoning district lines.

c) Any other information the Town Board, Planning Board or Building Inspector may require to properly review the Subdivision.

d) A map of soil types, in accordance with the U.S. Department of Agriculture Soil Conservation Service's classification of soils found on the tract and a summary of soil characteristics with respect to the use proposed for the land.

e) The Long Form of the Environmental Assessment Form in compliance with the State Environmental Quality Review Act.

Section 7.3 Final Major Subdivision and Accompanying Data

.1 Final Subdivision Plat. The final plat to be filed with the County Clerk shall be printed upon reproducible mylar. The size of sheets shall not be greater than thirty-four by forty-four (34 x 44) inches. The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the north point at the top of the map. When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision.

The Plat shall show all information required on the Preliminary Plan and in addition:

a) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.

b) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.

c) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground.

d) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be give. All dimensions shall be shown in feet and decimals of a foot.

The plat shall show the boundaries of the property, location, graphic scale and true north point.

e) The plat shall also show by proper designation

thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.

f) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

g) All lot corner markers shall be permanently located satisfactorily to the Town Building Inspector at least three-quarter (3/4) inches (if metal) in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade.

h) Monuments of a type approved by the Town Building Inspector shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve, and such intermediate points as shall be required by the Town Building Inspector.

.2 Additional Information. Construction drawings including plans, profiles and typical cross-sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers or septic tanks and leach fields, storm drains, pavements and sub-base, manholes, catch basins, underground utilities and other facilities.

ARTICLE 8 WAIVERS AND SEPARABILITY

Section 8.1 Waivers

.1 Basis for Waivers. Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provision of certain required improvements is not required in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the pro-posed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, or the Zoning Ordinance.

.2 Conditions. In granting waivers, the Planning Board shall require such conditions as will, in its judgement, secure substantially the objectives of the standards of

requirements so waived.

Section 8.2 Separability

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such ruling shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

