

TOWN OF DUANESBURG

Local Law No. 1 of the year 2005

A LOCAL LAW TO IMPOSE AN INTERIM OR TEMPORARY SUSPENSION ON THE REVIEW, APPROVAL AND/OR ISSUANCE OF ALL PERMITS FOR OR RELATING TO RESIDENTIAL SUBDIVISIONS CONSISTING OF MORE THAN TWO (2) LOTS FOR WHICH APPLICATION WAS MADE AFTER DECEMBER 9, 2004.

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

SECTION 1. TITLE

This local law shall be known as and may be cited as the “Interim Development Law for Major Subdivisions of the Town of Duanesburg”.

SECTION 2. AUTHORITY

This local law is enacted pursuant to the Town of Duanesburg’s authority to enact local laws under the New York State Constitution, Article IX, and Chapter 205 of the laws of 1964, effective July 1, 1965, constituting Chapter 58-A of the Consolidated Laws of the State of New York, Section 10 of the Statute of Local Governments, granting towns the power to adopt, amend and repeal zoning regulations in the exercise of its functions, powers and duties.

SECTION 3. PURPOSE AND INTENT

A. PURPOSE

This local law is hereby enacted to preserve the status quo in the Town of Duanesburg on a temporary basis while a comprehensive study is conducted to review and consider amendments to the land use regulations relative to the Town of Duanesburg’s Zoning Ordinance, Subdivision Ordinance, Local Laws and Comprehensive Plan. For this purpose, the Town of Duanesburg has formed a committee and engaged a consultant as Town Planner to gather information and to make recommendations. This procedure will then lead to the creation and adoption of necessary amendments to the Zoning Ordinance, Subdivision Ordinance, Comprehensive Plan and Laws of the Town of Duanesburg.

## B. INTENT

The Town Board hereby finds that the Town of Duanesburg is primarily rural in character and under considerable development pressures, including the development of residential subdivisions. Increased growth and development of residential subdivisions and multifamily developments requiring site plan, special use and other approvals within the Town of Duanesburg are placing severe pressure on open spaces and agricultural land, and the rural character and natural resources of the Town. The Town's unique character, geography and hydrology impose district limitations on the shape, design and intensity of development that can reasonably be sustained without endangering the public health, safety and welfare of residents. Further, the Town is desirous of expanding its commercial and business tax base to help diversify and stabilize the Town's revenue fund. Ill-placed residential subdivisions and multifamily developments subject to site plan review can significantly reduce the availability of agricultural lands as well as sites for commercial/industrial development. Decisive measures are needed to protect farmland while ensuring the economic viability of the agricultural industry as well as appropriately planning for commercial and industrial areas. The Town Board further finds and determines that unless reasonable interim measures are implemented, significant building and land development may occur that may undermine the implementation of appropriate planning measures needed to protect the public interest and welfare and goals of the Town of Duanesburg. It is the intent of the Town Board to protect the public health, safety and general welfare by enacting this local law for a reasonable period. The Town is undertaking a comprehensive study to develop solutions to open space and farmland protection, conservation and development, as well as appropriate commercial development, and to implement necessary amendments to the land use and zoning regulations to accomplish such goals. It is the further intention of the Town Board to protect the public interest by preventing a race of diligence between property owners, developers and the Town of Duanesburg which could prejudice the integrity and objectives of the proposed changes or result in a land use pattern that might be inconsistent with the intent of the recommendations of said study.

The Town's existing procedures and laws should have the practical effect of ensuring that new development and redevelopment are in accordance with the Town's planning objectives. The practical reality, however, is that some of the land use regulations and procedures are not having this effect. The Town Board finds it necessary to impose a moratorium on processing and granting approvals for residential subdivisions consisting of more than two (2) lots that require site plan or special use approvals, as hereafter provided. An integrated strategy that takes into account the Town's fragile and finite natural resources and its unique geographic consideration is needed. This moratorium will enable the Town to focus on crafting and implementing a strategy that actually achieves its planning objectives.

### SECTION 4. SCOPE OF THE REGULATIONS

A. During the effective period of this law, neither the Planning Board, Zoning Board of Appeals or Town Board, or any member, employee, agent or independent contractor thereof, shall accept for review, continue review, hold a hearing, make any decision upon, or otherwise consider any application submitted to the Town of Duanesburg after December 9, 2004 for, or relating to, the residential subdivision of land into more than two (2) lots in total (“Major Residential Subdivisions”) for:

1. concept, preliminary or final approval of a subdivision plat,
2. site plan approvals,
3. special use permits,
4. use variances, or
5. changes in zoning districts,

regardless of the fact that an application has been submitted prior to the effective date of this local law. The statutory and locally enacted time periods for processing and making decisions on all aspects of the foregoing are suspended and stayed while this local law is in effect.

B. The restrictions contained herein as they apply to Major Residential Subdivisions shall not apply to:

1. Applications submitted to the Town of Duanesburg prior to December 10, 2004,
2. Major Residential Subdivision plats which, prior to the effective date of this local law, have received final Planning Board and/or Zoning Board approval, as applicable,
3. Special use permit applications which, prior to the effective date of this local law, have received final Planning Board and/or Zoning Board approval, as applicable,
4. Building permits for any and all construction on approved building lots in Major Residential Subdivisions for which all required Planning Board, Zoning Board of Appeals and Town Board approvals have been obtained prior to the effective date of this local law,

5. Certificates of Occupancy for any and all construction made pursuant to building permits issued for any and all construction on approved building lots in Major Residential Subdivisions for which all required Planning Board, Zoning Board of Appeals and Town Board approvals have been obtained prior to the effective date of this local law.

#### SECTION 5. VIOLATIONS

Any person, firm, entity or corporation that shall violate any of the provisions of this local law shall be subject to:

- A. Penalties as otherwise provided by law or ordinances of the Town of Duanesburg for such violation, and
- B. Injunction relief in favor of the Town of Duanesburg to cease operations which are in conflict with this law.

#### SECTION 6. VARIANCE

Notwithstanding any of the aforementioned prohibitions, the Town Board, upon request of any party whose application for subdivision has been denied consideration hereunder, may vary or modify the application of any provision of this local law upon the Town Board's determination, in its absolute legislative discretion that:

- A. The applicant will suffer undue and unjustifiable hardship, which is not of his or her own causation, if his or her application is denied consideration; and
- B. That the request is consistent with the purpose of this local law and with the health, safety and general welfare of the Town.

#### SECTION 7. CONFLICT WITH STATE STATUTES AND AUTHORITY TO SUPERCEDE

To the extent that any provisions of this local law are in conflict with or are construed as inconsistent with provisions of New York State Town Law, this local law supercedes, amends and takes precedence over New York State Town Law pursuant to the Town's municipal home rule powers, pursuant to Municipal Home Rule Law § 10 and § 22, to supercede any inconsistent authority.

In particular, this local law supercedes any inconsistent provision of Town Law § 276, the Subdivision Ordinance of the Town of Duanesburg, adopted March 9, 1995, and The Town of Duanesburg, N.Y. Zoning Ordinance, adopted December 13, 2001, as amended by

previously enacted local laws, including but not limited to Section 13.6, dealing with Cluster Development.

**SECTION 8.**            **SEVERABILITY**

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, the judgment shall not effect the validity of this law as a whole or any part thereof other than the part so decided to be invalid.

**SECTION 9.**            **EFFECTIVE DATE AND DURATION**

This local law shall be effective upon filing with the Department of State and shall be in effect until and inclusive of August 31, 2005, subject to extension of an additional 90 days by resolution of the Town Board.