

DUANESBURG
2015 ZONING ORDINANCE

Adopted 6/11/15

Town of Duanesburg 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 Duaneburg 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 to 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 subdivisions 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. Apartments\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.

DUANESBURG

LL1 & LL2 2017 LOCAL LAWS ORDINANCE AMENDMENTS

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

COPY

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax

Terresa M. Bakner
Partner
518.487.7615 phone
tbakner@woh.com

August 24, 2017

Via Hand Delivery

NYS Department of State
Division of Corporations
State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231

RECEIVED
STATE RECORDS

AUG 24 2017

DEPARTMENT OF STATE

Re: Local Law No. 1 & 2 of 2017 of the Town of Duanesburg

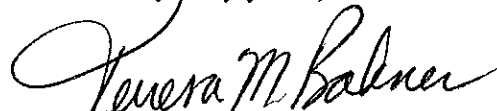
Dear Sir/Madam:

Whiteman Osterman & Hanna LLP represents the Town of Duanesburg as municipal counsel. On behalf of the Town Clerk of the Town of Duanesburg, enclosed for filing please find Local Laws Nos. 1 and 2 of 2017 which were adopted by the Town Board of the Town of Duanesburg on February 16, 2017. For your convenience attached is a copy of each local law so that you can stamp them received.

Please note that the Town previously attempted to file these local laws with your office, however, only every other page of the local law was provided to your office. It is my understanding that you will post these corrected versions. Please see the enclosed resolution of the Town Board explaining the circumstances.

If you have any questions, please do not hesitate to contact the Town Clerk, Jennifer Howe, or me.

Very truly yours,


Terresa M. Bakner

Enclosures

cc: Jennifer Howe

Copy

TOWN OF DUANESBURG TOWN BOARD

RESOLUTION NO. 115-2017

August 10, 2017

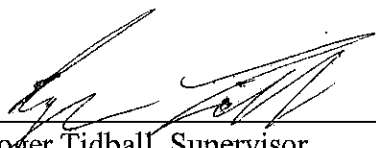
WHEREAS, on February 9, 2017, the Town Board unanimously adopted the attached resolution approving local law no. 1 of 2017 and local law no. 2 of 2017 which changed how lot line adjustments and minor subdivisions are evaluated by the Town Planning Board;

WHEREAS, the Town Clerk filed every other page of local laws purporting to be local law no. 1 of 2017 and local law no. 2 of 2017 with the Secretary of State's office;

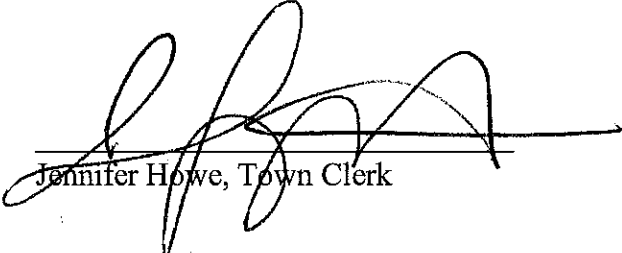
WHEREAS, a true and complete copy of every page of the local laws has not been filed as of this date;

WHEREAS, the Town Board finds that the attached local laws, resolution and negative declaration were approved by the Town Board at its regular Town Board meeting on February 9, 2017;

NOW THEREFORE BE IT RESOLVED, that the Town Board directs the Town Clerk to file the complete and correct version of local laws no. 1 and 2 of 2017 (potentially renumbered for filing) with the Secretary of State's office and to place a copy of this resolution and the attached local laws and accompanying documents in the Town records.



Roger Tidball, Supervisor



Jennifer Howe, Town Clerk

Present: Council Members Leoni, Passonno and Potter, Supervisor Tidball
Absent: Council Member Ganther

Town Board Members:

Roger Tidball	<input checked="" type="radio"/> Yea	Nay	Abstain
John Ganther	<input type="radio"/> Yea	Nay	Abstain
Rick Potter	<input checked="" type="radio"/> Yea	Nay	Abstain
Randy Passonno	<input checked="" type="radio"/> Yea	Nay	Abstain
Charles Leoni	<input checked="" type="radio"/> Yea	Nay	Abstain

Local Law Filing

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

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

County City Town Village
(Select one.)

of Duanesburg

RECEIVED
STATE RECORDS

AUG 24 2017

Local Law No. 1 of the year 2017 DEPARTMENT OF STATE

A local law amending Section 14.2 of the Zoning Ordinance of the Town of Duanesburg
(Insert Title)

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

County City Town Village
(Select one.)

of Duanesburg

as follows:

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2017 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town Board on August 10, 2017, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

TOWN OF DUANESBURG LOCAL LAW NO. 1 OF 2017

A LOCAL LAW AMENDING SECTION 14.2 OF THE ZONING ORDINANCE OF THE TOWN OF DUANESBURG

BE IT ENACTED by the Town Board of the Town of Duanesburg, in the County of Schenectady, as follows:

Section 1. Title of Local Law.

This Local Law shall be entitled "A Local Law Amending Section 14.2 of the Zoning Ordinance of the Town of Duanesburg".

Section 2. Authorization.

This Local Law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

Section 3. Purpose.

The purpose of this local law is to add to the list of duties of the Uniform Code Enforcement Officer the ability to administer lot line adjustment and minor subdivision applications that have been determined by the Planning Board to be exempt from full scrutiny, review and approval, in accordance with its authority under Article 3 of the Town of Duanesburg Subdivision Ordinance.

Section 4. Amendments to Section 14.2 of the Zoning Ordinance titled "Uniform Code Enforcement Officer".

Section 14.2 is hereby amended to add the following new section 14.2.11:

11. Review and administer all Lot Line Adjustment and Minor Subdivision applications that have been determined by the Planning Board to be exempt from full scrutiny, review and approval, in accordance with its authority under Article 3 of the Town of Duanesburg Subdivision Ordinance. The Code Enforcement Officer is authorized to sign the Lot Line Adjustment plat or exempt Minor Subdivision plats in the event the Planning Board declines to exercise jurisdiction.

Section 5. Supercession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Zoning Ordinance herein addressed, in so far as such statutes are inconsistent with this Law and any other laws or regulations of the Town of Duanesburg are superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same. Local Law 2 of 2016 is hereby expressly rescinded and superceded by this Local Law.

Section 6. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 7. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

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

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

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

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

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

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

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

Date: August 10, 2017

(Seal)

TOWN OF DUANESBURG TOWN BOARD

RESOLUTION NO. 115-2017

August 10, 2017

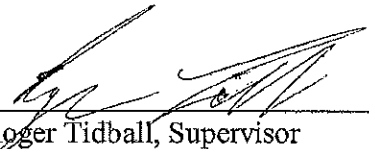
WHEREAS, on February 9, 2017, the Town Board unanimously adopted the attached resolution approving local law no. 1 of 2017 and local law no. 2 of 2017 which changed how lot line adjustments and minor subdivisions are evaluated by the Town Planning Board;

WHEREAS, the Town Clerk filed every other page of local laws purporting to be local law no. 1 of 2017 and local law no. 2 of 2017 with the Secretary of State's office;

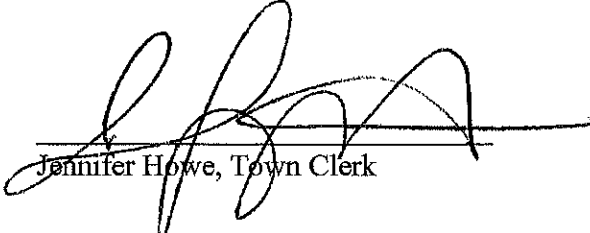
WHEREAS, a true and complete copy of every page of the local laws has not been filed as of this date;

WHEREAS, the Town Board finds that the attached local laws, resolution and negative declaration were approved by the Town Board at its regular Town Board meeting on February 9, 2017;

NOW THEREFORE BE IT RESOLVED, that the Town Board directs the Town Clerk to file the complete and correct version of local laws no. 1 and 2 of 2017 (potentially renumbered for filing) with the Secretary of State's office and to place a copy of this resolution and the attached local laws and accompanying documents in the Town records.



Roger Tidball, Supervisor



Jennifer Howe, Town Clerk

Present: Council Members Leoni, Passonno and Potter, Supervisor Tidball
Absent: Council Member Ganther

Town Board Members:

Roger Tidball	<input checked="" type="radio"/> Yea	Nay	Abstain
John Ganther	<input type="radio"/> Yea	Nay	Abstain
Rick Potter	<input checked="" type="radio"/> Yea	Nay	Abstain
Randy Passonno	<input checked="" type="radio"/> Yea	Nay	Abstain
Charles Leoni	<input checked="" type="radio"/> Yea	Nay	Abstain

Local Law Filing

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

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

County City Town Village
(Select one.)

of Duanesburg

Local Law No. 2 of the year 2017

A local law amending the Subdivision Ordinance of the Town of Duanesburg
(Insert Title)

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

County City Town Village
(Select one.)

of Duanesburg

as follows:

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2017 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town Board on August 10, 2017, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

TOWN OF DUANESBURG LOCAL LAW NO. 2 OF 2017

**A LOCAL LAW AMENDING THE SUBDIVISION ORDINANCE OF THE
TOWN OF DUANESBURG**

BE IT ENACTED by the Town Board of the Town of Duanesburg, in the County of Schenectady, as follows:

Section 1. Title of Local Law.

This Local Law shall be entitled "A Local Law Amending the Subdivision Ordinance of the Town of Duanesburg".

Section 2. Authorization.

This Local Law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

Section 3. Purpose.

It is the intent and purpose of this Local Law to clarify the distinction between a subdivision of land which is subject to full scrutiny, review and approval by the Town Planning Board, and a mere lot line adjustment or minor subdivision (consisting of no more than two lots) which should be considered and permitted with a minimum burden imposed upon the involved property owner(s).

Section 4. Amendments to Article 2 of the Subdivision Ordinance titled "Definitions".

Article 2 is hereby amended to add the following new definition:

LOT LINE ADJUSTMENT - The relocation or revision of the boundary line of a lot to change the area of said lot and of an existing adjacent lot or lots, and which does not create any additional number of lots. A lot line adjustment shall not be considered a subdivision or a resubdivision.

Section 5. Amendments to Article 3 of the Subdivision Ordinance titled "Platting Procedures".

Section 3.3 of Article 3 is hereby repealed and replaced with:

Section 3.3 Pre-Application Review

.1 Requirements. The applicant for a Subdivision or Lot Line Adjustment, 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 applicant shall submit to the Town Building Inspector ten (10) copies of a

sketch plan of the proposed subdivision or lot line adjustment as required by Section 3.3.2. (below). Within thirty (30) days of meeting with the applicant, 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 in accordance with Section 15.7 of the Town Zoning Ordinance and no plat shall be given final approval until such fees are reimbursed.

.2 Sketch Plan. The sketch plan initially submitted to the Planning Board shall be based on the 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 vicinity map at a scale of one inch equals 2,000 feet indicating 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 physical features, within the portion to be subdivided and within two hundred (200) feet thereof;
- (c) All the utilities available at the property, and all streets which are either proposed, mapped or built;
- (d) Contour lines at interval 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, sewage utilities, and water supply (see Section 6.6), within the subdivided area, as well as 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 subdivision; 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 (500) feet along the road.

.3 Waiver of Submission Requirements. The Planning Board may waive, upon the request of the applicant, any of the submission requirements of this Article if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.

.4 Classification. The Planning Board shall determine whether the sketch plan illustrates a Lot Line Adjustment, a Minor or a Major 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,

and not otherwise exempt under Section 3.3.3, 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.

.5 Exemptions. The Planning Board may, in its discretion, exempt Lot Line Adjustments or Minor Subdivisions from full scrutiny, review and approval by the Town Planning Board, as required by Section 3.4. The determination as to whether any proposed action should be exempt shall be within the reasonable interpretation and discretion of the Planning Board and shall only be considered upon application made and good cause shown by the owner(s) of the affected lots. If the Planning Board so determines that the proposed action neither creates nor increases any significant planning issues with respect to the existing or potential future use of any involved parcel(s), and in the instance of a Lot Line Adjustment, that no additional lots will be created as a result of the lot line adjustment, the Planning Board may, at its discretion, declare the proposed action to be exempt from any further subdivision review pursuant to this Article, whereupon it shall refer the application to the Code Enforcement Officer to complete the administration of the same. A Lot Line Adjustment plat shall be filed in the same manner and following the same procedures as filing of Minor Subdivision plats except that the Code Enforcement Officer may sign the Lot Line Adjustment plat or exempt Minor Subdivision plats in the event the Planning Board declines to exercise jurisdiction.

Notwithstanding anything to the contrary, in the event the Planning Board is of the opinion that the primary purpose and intent of the proposed action is to develop the affected lot(s) in circumvention of the otherwise applicable subdivision review and proceedings, the application to treat such action as a Lot Line Adjustment may properly be denied. In the event the Lot Line Adjustment is considered for review as a Minor Subdivision, all applicable procedures of Article 3, and in particular Section 3.4, shall apply.

Section 3.4 is hereby amended to add Section 3.4.4

.4 Filing of Minor Subdivision Plat. Within six (6) months of Planning Board approval on a Minor Subdivision, the applicant shall submit the plat for signature. If the applicant fails to submit plans for signature within six (6) months the approval shall be considered null and void unless an extension of time is requested in writing and granted by the Planning Board.

The plat shall be filed with the Schenectady County Clerk within forty-five (45) days from the date signed by the Chairman of the Planning Board. If the applicant fails to submit plans for signature within forty-five (45) days the approval shall be considered null and void unless an extension of time is requested in writing and granted by the Planning Board.

The applicant shall bear all fees in connection with the filing of the plat.

Section 6. Supercession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Subdivision Ordinance herein addressed, in so far as such statutes are inconsistent with this Law and any other laws or regulations of the Town of Duanesburg are superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same. Local law 3 of 2016 is hereby expressly rescinded and superceded by this Local Law.

Section 7. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 8. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

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

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

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

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

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

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

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

Date: August 10, 2017

(Seal)

DUANESBURG

ENVIRONMENTAL QUALITY REVIEW ORDINANCE

ENVIRONMENTAL QUALITY REVIEW ORDINANCE

An Ordinance of the Town of Duanesburg, County of Schenectady, State of New York, pursuant to Article 8 of the New York State Environmental Conservation Law, also known as the State Environmental Quality Review Act, providing for environmental quality review of actions which may have a significant effect on the environment.

BE IT ENACTED by the Town Board of the Town of Duanesburg as follows:

Section 1. Definitions. (a) Unless otherwise noted, the words, terms and phrases used in this ordinance shall have the same meaning as those defined in Sec. 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR.

(b) "Town" shall mean the Town of Duanesburg.

(c) "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth and existing community or neighborhood character. (as defined in SEQR, Sec. 8-0105)

(d) "Type I Action" an action that is likely to require preparation of an environmental impact statement. (as described in 617.12 6 NYCRR)

(e) "Type II Action" an action which has been determined not to have a significant effect on the environment and which does not require an environmental impact statement. (as described in 617.12, 6 NYCRR)

Section II. Approval. No decision to carry out or approve an action other than an action listed in Sec. 3(b) hereof or Sec. 617.12 of 6 NYCRR as a type II action, shall be made by the Town Board or any department, board, officer or employee of the Town until there has been full compliance with all the requirements of this ordinance and Part 617 of Title 6 NYCRR.

Section III. Actions. (a) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in Sec. 617.12 of Title 6 NYCRR, are Type I actions:

1. Actions requiring approval of the Zoning Board of Appeals.
2. Construction of new highways by the Town Highway Department.
3. Actions of the Town Board initiating construction of new Town buildings.
4. Actions of the Town Board selecting and designating Town landfill sites.
5. Any facility, development or project which is to be directly located in the watershed of the Village of Delanson reservoirs.

(b) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in Sec. 617.12 of Title 6 NYCRR are Type II actions.

1. The sale or issuance by the Town Clerk of the following:

- DEC licenses
- Dog licenses
- Marriage licenses
- Death certificates
- Solicitors' permits
- Landfill permits

2. The issuance by the Town Building Inspector of the following:

- Building permits
- Septic permits
- Occupancy permits.

(c) Responsibility for environmental review of specified actions shall be designated to the appropriate departments or boards by resolution of the Town Board.

Section IV. Initial Determination. For the purpose of assisting in the determination of whether a Type I action may or will not have a significant effect on the environment, applicants for permits or other approval of Type I actions shall file a written statement with the appropriate department or board setting forth the name of the applicant, the location of the real property affected, if any, a description of the nature of the proposed action, and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, the proposed action may or will not have a significant effect on the environment. The statement and

information shall be in whatever form desired by the appropriate department or board and may be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material so desired.

Section V. Determination. The appropriate department or board shall render to the applicant a written determination on such application for approval of a Type I action within 15 days following receipt of a complete application and statement, provided, however, that such period may be extended by mutual agreement of the applicant and the appropriate department or board. The determination shall state whether such proposed action may or will not have a significant effect on the environment.

Section VI. No Significant Effect. If the appropriate department or board determines that the proposed action will not have a significant effect on the environment, the department or board shall prepare, file and circulate such determination as provided in Sec. 617.7(b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this Town ordinance.

Section VII. Significant Effect. If the appropriate department or board determines that the proposed action may have a significant effect on the environment, the department or board shall prepare, file and circulate such determination as provided in Sec. 617.7(b) of Title 6 NYCRR and thereafter the department or board shall:

(a) In the case of an action involving an applicant, immediately notify the applicant of the determination and shall request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement.

(b) In the case of an action not involving an applicant, prepare a draft environmental impact statement.

If the applicant decides not to submit an environmental impact report, the department or board shall prepare or cause to be prepared the draft environmental impact statement, or in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The department or board may require the applicant to submit a fee to

defray the expense of preparing or reviewing an environmental impact statement. Such Fees shall be established by resolution of the Town Board.

Section VIII. Effective Date. This ordinance shall take effect immediately upon its filing in accordance with the provisions of Sec. 133 of the Town Law of the State of New York.

DUANESBURG

LL1 1991 RIGHT TO FARM

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

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

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

~~County~~

~~City~~

~~Town~~

~~Village~~

of Duanesburg

Local Law No. 1 of the year 1991

A local law *(Insert Title)* Right to Farm Law of the Town of Duanesburg, providing protection and encouragement of farming in the Town of Duanesburg.

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

~~County~~

~~City~~

~~Town~~

~~Village~~

of Duanesburg

as follows:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF DUANESBURG, AS FOLLOWS:

Section 1. TITLE. This Local Law shall be known the Right to Farm Law of the Town of Duanesburg.

Section 2. LEGISLATIVE INTEND AND PURPOSE. It is the general purpose and intent of this Local Law to maintain and preserve the rural tradition and character of the Town of Duanesburg, to permit and encourage the continuation of the business of farming within the Town of Duanesburg, to protect the existence and operation of established farms, and to encourage the iniation and expansion of farming.

Section 3. DEFINITIONS.

(a) Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meanings they have in common usage and to give this Local Law its most reasonable application.

(b) For the purpose of this act, agricultural activities are defined as the production of crops, livestock, and livestock products as defined, in Section 301 (2) of the Agricultural and Markets Law of the State of New York.

(c) For the purpose of this act, farmland is defined as land used in agriclultural production, as defined in Section 301 (4) of the Agricultural and Markets Law of the State of New York.

Section 4. RIGHT TO FARM. Farmers, both full-time and part-time, *(If additional space is needed, attach pages the same size as this sheet, and number each.)*

as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Duanesburg at any and all such times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Section 5. DECLARATION. It is hereby declared that agricultural activities conducted on farmland, if consistent with good agricultural practices and established prior to surrounding nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety. No agricultural or farming operation, place establishment or facility, shall be or shall become a nuisance, as a result of changed conditions in or around the locality of such agricultural or farming operation, place, or establishment. If such facility has been in operation for one year or more and if it was not a nuisance at the time it began operation. This section, however, shall not apply whenever a nuisance injurious to the public health, or safety, results from the operation of any such agricultural or farming operation, place, establishment, or facility or any of its appurtenances.

Section 6. CONSTRUCTION WITH OTHER LAWS. This Local Law is not intended to contradict or contravene any law, rule, regulation, restriction or proscription of the United States, State of New York, County of Schenectady or Town of Duanesburg, which may now or hereafter pertain and accordingly, such legislation and regulations shall be deemed continued in full force and effect and unaffected by this Local Law.

Section 7. SEVERABILITY CLAUSE. If any part of this Local Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law.

Section 8. EFFECTIVE DATE. This Local Law shall become effective upon filing with the New York State Secretary of State's Office.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1991 of the ~~(County)(City)~~(Town)(Village) of Duanesburg was duly passed by the ~~Duanesburg Town Board~~ on Oct. 10 1991, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

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

Neil M. Senon

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

(Seal)

Date: Nov. 7, 1991

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

STATE OF NEW YORK
COUNTY OF Schenectady

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

Donald A. [Signature]

Signature

Town Attorney

Title

~~KNXX~~
~~KNY~~ of Duanesburg
Town
~~XMM~~

Date: Nov 8, 1991

DUANESBURG

LL1 2013 FLOOD DAMAGE PREVENTION – CORRECTED

Local Law Filing

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

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

County City Town Village
(Select one:)

of Duanesburg

FILED
STATE RECORDS

DEC 19 2013

DEPARTMENT OF STATE

Local Law No. 1 of the year 2013

A local law A Local Law Superceding Local Law #2 of the Year 1987 Relating to Flood Damage P
(Insert Title)
Prevention Within the Town of Duanesburg

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

County City Town Village
(Select one:)

of Duanesburg as follows:

See Attached

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2013 of the ~~(County)(City)~~(Town)(Village) of Duanesburg was duly passed by the Town Board on December 5, 2013, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

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

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

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

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

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

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

[Handwritten Signature]
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 12 5 13

TOWN OF DUANESBURG

Local Law No. 1 of the Year 2013

**A LOCAL LAW SUPERCEDING LOCAL LAW # 2 OF THE YEAR 1987
RELATING TO FLOOD DAMAGE PREVENTION WITHIN THE
TOWN OF DUANESBURG**

BE IT ENACTED by the Town Board of the Town of Duanesburg as follows:

SECTION 1. STATUTORY AUTHORIZATION AND PURPOSE

1.1 TITLE

This Local Law shall be known as the “Flood Damage Prevention Law” of the Town of Duanesburg.

1.2 AUTHORITY

This Local Law amends and replaces in its entirety Local Law No. 2 of the Year 1987, and supercedes all prior Local Laws and Ordinances of the Town of Duanesburg relating to flood damage prevention within the Town of Duanesburg. This Local Law is enacted pursuant to the authority of the New York State Constitution, Article IX, Section 2, pursuant to the authority of Chapter 55 of the Laws of 1992, as amended, constituting Chapter 43-B of the Consolidated Laws of the State of New York, Article 36 of the Environmental Conservation Law, placing the responsibility for enacting flood hazard land-use controls on localities and pursuant to the authority of Chapter 843 of the Laws of 1932, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, authorizing towns to enact, amend and repeal ordinances, rules and regulations by local law.

1.3 FINDINGS

The Town of Duanesburg finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Duanesburg and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Local Law is adopted.

1.4. STATEMENT OF PURPOSE

It is the purpose of this Local Law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.5 OBJECTIVES

The objectives of this Local Law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,

- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meaning they have in common usage and to give this Local Law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Critical Facilities" means:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;

- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

"Cumulative Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1 A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A 1 - A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water

level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM) " means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined

by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" means that term as determined using the methodology of the Federal Emergency Management Agency Substantial Damage Estimator (SDE) User Manual and Workbook, April 2013 and any amendment thereto.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988

(NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration or a "Historic structure," provided that the alteration will not preclude the structure's continued designation as a "Historic structure."

"Variance" means a grant of relief from the requirements of this Local Law which permits construction or use in a manner that would otherwise be prohibited by this Local Law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3. GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Duanesburg, Schenectady County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Duanesburg, Community Number 361191, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

36093C0020D, 36093C0038D, 36093C0085D, 36093C0092D, 36093C0093D, 36093C0094D,
36093C0105D, 36093C0110D, 36093C0111D, 36093C0112D, 36093C0113D, 36093C0114D,
36093C0120D, 36093C0130D, 36093C0140D, 36093C0145D, 36093CO206D, 36093CO207D,
36093CO209D, 36093CO230D, 36093CO235D, 36093CO251D, 36093CO252D, 36093CO256D

whose effective date is January 8, 2014, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Schenectady County, New York, All Jurisdictions" dated January 8, 2014.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Town of Duaneburg
Town Hall
5853 Western Turnpike
Duaneburg, New York 12056

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or

imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Duanesburg from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency. The maximum fine imposed herein may be changed by resolution of the Town Board of the Town of Duanesburg.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Local Law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Local Law shall not create liability on the part of the Town of Duanesburg, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Local Law or any administrative decision lawfully made there under.

SECTION 4. ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this Local Law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$100.00. In addition, the applicant shall be responsible for reimbursing the Town of Duanesburg for any and all additional costs necessary for review, inspection and approval of this project, including engineering costs, survey costs, architect costs and attorney's fees and expenses. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs. The application fee and maximum deposit may be changed by resolution of the Town Board of the Town of Duanesburg.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A 1- A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1 -A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a

recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any flood-plain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this Local Law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any flood-plain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this Local Law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5. CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated

development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

- (ii) the Town of Duanesburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Duanesburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Duanesburg for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Flood-way Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
- (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Town of Duanesburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Duanesburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Duanesburg for all costs related to the final map revisions, or,
 - (iii) whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline or a pond or other body of water can be credited as a compensating excavation.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 6.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones Al-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical

part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii).
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Flood-proofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially proved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as 2 feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2.

5.6 CRITICAL FACILITIES

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical

facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or a Shaded X zone on the Community's Flood Insurance Rate Maps.

SECTION 6. **VARIANCE PROCEDURE**

6.1 **APPEALS BOARD**

- (1) The Zoning Board of Appeals as established by the Town of Duanesburg shall hear and decide appeals and requests for variances from the requirements of this Local Law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this LocalL.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this Local Law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Local Law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

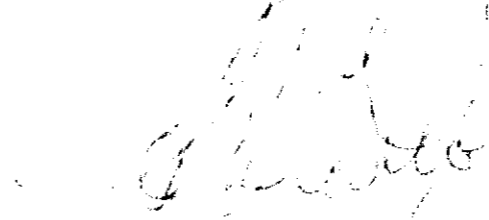
- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure;" and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of the Local Administrator that:
- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage (or such amounts as are in effect at the time of such notice); and
 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

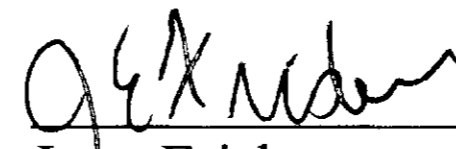
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Be it enacted this 5th day of December, 2013 by the Town Board of the
Town of Duaneburg, Schenectady County, New York, to be effective
12-5-2013.

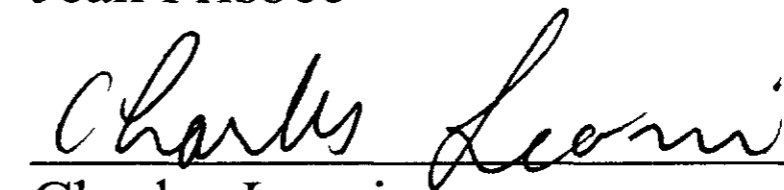


John Ganther

Francis R. Potter



Jean Frisbee



Charles Leoni

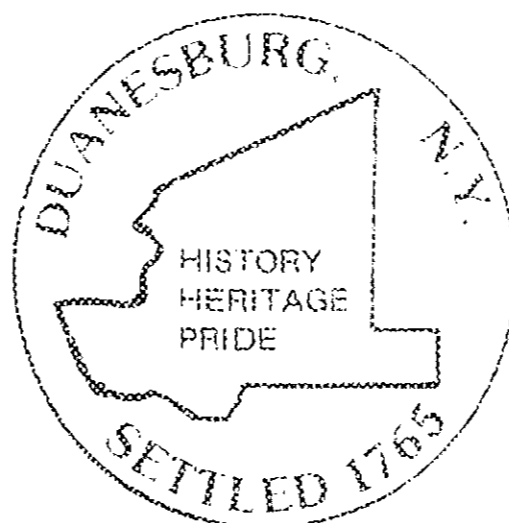
SEAL

ATTEST:



CLERK

René J. Merrihew, Town Supervisor
Leah Lennon, Town Clerk



Jean Frisbee, Council Member
John D. Ganther, Jr., Council Member
Charles Leoni, Council Member
Francis R. Potter, Council Member

Town of Duaneburg

STATE OF
DEPARTMENT OF STATE
FILED

DEC 30 2013

**MISCELLANEOUS
& STATE RECORDS**

5853 Western Turnpike
Duaneburg, NY 12056
Phone 518-895-2331
FAX 518-895-8171

To the New York State Department of State,

The Town of Duaneburg passed Local Law No. 1 of the year 2013, "A Local Law Superceding Local Law #2 of the Year 1987 Relating to Flood Damage Prevention within the Town of Duaneburg," at its December 5, 2013 board meeting. Local Law No. 1 of the year 2013 has subsequently been filed with the New York State Department of State, Division of Corporations, State Records & Uniform Commercial Code.

Subsequent to such filing, a typographical error has been discovered and as such, pursuant to 19 NYCRR 130.5, attached please find a corrected page 16 of Local Law No. 1 of the year 2013, deleting the Section 5.2, STANDARDS FOR ALL STRUCTURES, reference to Section 6.2 as the Flood Insurance Rate Map designation and replacing such with a reference to Section 3.2 as the correct Flood Insurance Rate Map designation.

Thank you for your assistance and please do not hesitate to contact me with any questions or concerns.

Sincerely yours,

Kathryn G. Snell
Kathryn G. Snell
Deputy Town Clerk

development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

- (ii) the Town of Duanesburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Duanesburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Duanesburg for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Flood-way Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
- (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Town of Duanesburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Duanesburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Duanesburg for all costs related to the final map revisions, or,
 - (iii) whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline or a pond or other body of water can be credited as a compensating excavation.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.2-1 ANCHORING

DUANESBURG

LL1 2013 FLOOD DAMAGE PREVENTION

Local Law Filing

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

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

County City Town Village
(Select one.)

of Duanesburg

FILED
STATE RECORDS

DEC 19 2013

DEPARTMENT OF STATE

Local Law No. 1 of the year 2013

A local law A Local Law Superceding Local Law #2 of the Year 1987 Relating to Flood Damage P

(Insert Title)
Prevention Within the Town of Duanesburg

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

County City Town Village
(Select one.)

of Duanesburg

as follows:

See Attached

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2013 of the ~~(County)(City)~~(Town)(Village) of Duanesburg was duly passed by the Town Board on December 5, 2013, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

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

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

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

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

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

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

[Handwritten Signature]
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12-5-13

(Seal)

TOWN OF DUANESBURG

Local Law No. 1 of the Year 2013

A LOCAL LAW SUPERCEDING LOCAL LAW # 2 OF THE YEAR 1987 RELATING TO FLOOD DAMAGE PREVENTION WITHIN THE TOWN OF DUANESBURG

BE IT ENACTED by the Town Board of the Town of Duanesburg as follows:

SECTION 1. STATUTORY AUTHORIZATION AND PURPOSE

1.1 TITLE

This Local Law shall be known as the “Flood Damage Prevention Law” of the Town of Duanesburg.

1.2 AUTHORITY

This Local Law amends and replaces in its entirety Local Law No. 2 of the Year 1987, and supercedes all prior Local Laws and Ordinances of the Town of Duanesburg relating to flood damage prevention within the Town of Duanesburg. This Local Law is enacted pursuant to the authority of the New York State Constitution, Article IX, Section 2, pursuant to the authority of Chapter 55 of the Laws of 1992, as amended, constituting Chapter 43-B of the Consolidated Laws of the State of New York, Article 36 of the Environmental Conservation Law, placing the responsibility for enacting flood hazard land-use controls on localities and pursuant to the authority of Chapter 843 of the Laws of 1932, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, authorizing towns to enact, amend and repeal ordinances, rules and regulations by local law.

1.3 FINDINGS

The Town of Duanesburg finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Duanesburg and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this Local Law is adopted.

1.4. STATEMENT OF PURPOSE

It is the purpose of this Local Law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.5 OBJECTIVES

The objectives of this Local Law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,

- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meaning they have in common usage and to give this Local Law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure".

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Critical Facilities" means:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;

- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

"Cumulative Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1 A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A 1 - A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water

level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM) " means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined

by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle".

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" means that term as determined using the methodology of the Federal Emergency Management Agency Substantial Damage Estimator (SDE) User Manual and Workbook, April 2013 and any amendment thereto.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988

(NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration or a "Historic structure," provided that the alteration will not preclude the structure's continued designation as a "Historic structure."

"Variance" means a grant of relief from the requirements of this Local Law which permits construction or use in a manner that would otherwise be prohibited by this Local Law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3. GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Duanesburg, Schenectady County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Duanesburg, Community Number 361191, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

36093C0020D, 36093C0038D, 36093C0085D, 36093C0092D, 36093C0093D, 36093C0094D,
36093C0105D, 36093C0110D, 36093C0111D, 36093C0112D, 36093C0113D, 36093C0114D,
36093C0120D, 36093C0130D, 36093C0140D, 36093C0145D, 36093CO206D, 36093CO207D,
36093CO209D, 36093CO230D, 36093CO235D, 36093CO251D, 36093CO252D, 36093CO256D

whose effective date is January 8, 2014, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Schenectady County, New York, All Jurisdictions" dated January 8, 2014.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:

Town of Duaneburg
Town Hall
5853 Western Turnpike
Duaneburg, New York 12056

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or

imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Duanesburg from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency. The maximum fine imposed herein may be changed by resolution of the Town Board of the Town of Duanesburg.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Local Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Local Law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Local Law shall not create liability on the part of the Town of Duanesburg, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Local Law or any administrative decision lawfully made there under.

SECTION 4. ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this Local Law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$100.00. In addition, the applicant shall be responsible for reimbursing the Town of Duanesburg for any and all additional costs necessary for review, inspection and approval of this project, including engineering costs, survey costs, architect costs and attorney's fees and expenses. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs. The application fee and maximum deposit may be changed by resolution of the Town Board of the Town of Duanesburg.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A 1- A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1 -A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a

recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any flood-plain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this Local Law.

- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any flood-plain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this Local Law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Local Law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5. CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated

development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

- (ii) the Town of Duanesburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Duanesburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Duanesburg for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Flood-way Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
- (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Town of Duanesburg agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Duanesburg for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Duanesburg for all costs related to the final map revisions, or,
 - (iii) whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavations shall be constructed to drain freely to the watercourse. No area below the waterline or a pond or other body of water can be credited as a compensating excavation.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 6.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones Al-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical

part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones AI-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii).
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Flood-proofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially proved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as 2 feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2.

5.6 CRITICAL FACILITIES

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical

facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or a Shaded X zone on the Community's Flood Insurance Rate Maps.

SECTION 6. VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Town of Duanesburg shall hear and decide appeals and requests for variances from the requirements of this Local Law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this LocalL.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this Local Law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Local Law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

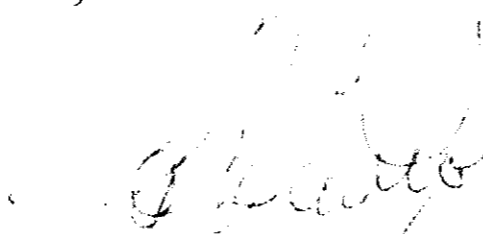
- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure;" and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of the Local Administrator that:
- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage (or such amounts as are in effect at the time of such notice); and
 - (ii) such construction below the base flood level increases risks to life and property.

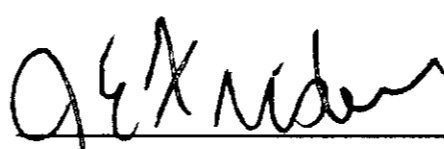
Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

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Be it enacted this 5th day of December, 2013 by the Town Board of the
Town of Duanesburg, Schenectady County, New York, to be effective
12-5-2013.



John Ganther

Francis R. Potter


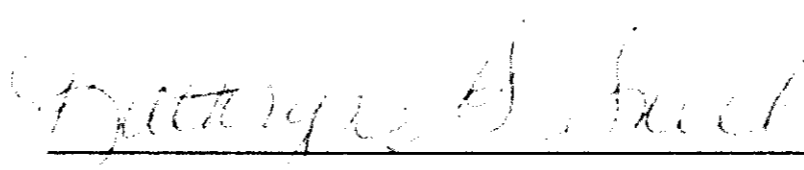
Jean Frisbee



Charles Leoni

SEAL

ATTEST:



Margaret A. Beal
CLERK
copy

DUANESBURG

LL1 1999 REFUSE DUMPING

(Please Use this Form for Filing your Local Law with the Secretary of State)

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

~~County~~
~~City~~ of Duaneburg
Town
~~Willage~~

Local Law No. 1 of the year 19 89

A local law REGULATING THE DUMPING OF REFUSE WITHIN THE TOWN OF DUANESEBURG AND THE
USE OF THE TOWN OPERATED SANITARY LANDFILL.
(Insert title)

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

~~County~~
~~City~~ of Duaneburg
Town
~~Willage~~ as follows:

SECTION I- LEGISLATIVE INTENT:

The Town Board of the Town of Duaneburg finds it necessary for the preservation of health, safety, good conduct and appearance of the Town to regulate the dumping of refuse and garbage within the Town of Duaneburg and to regulate the use of its sanitary landfill.

SECTION II - DEFINITIONS:

For the purpose of this Local Law the terms, phrases, and words used herein shall be as defined in the New York State Sanitary Code or if not defined therein shall have the meaning ordinarily given thereto. They shall be given the construction provided for in the General Construction Law of the State of New York.

SECTION III - PROHIBITION AGAINST DUMPING

The dumping, storing or placing of waste materials, rubbish, demolition materials and/or garbage on any lands in the Town of Duaneburg is hereby prohibited other than at Town authorized landfills. The accumulation, transportation, or placing of organic waste materials intended solely for agricultural or horticultural purposes shall be exempted for the provisions of this Local Law.

SECTION IV - OPEN HOURS OF THE SANITARYLANDFILL:

The Town sanitary landfill shall be open on such days and times as the Town Board shall provide by resolution which dates and times shall be posted at or near the entrance of said site. No person, corporation or governmental agency shall deposit waste, garbage, or refuse in said landfill at any other days or times than as is provided for herein except with the express written permission of the Town Board. It is a violation of this Local Law to dump or deposit waste, garbage, or refuse outside the gates of the sanitary landfill in the event that said landfill is closed.

SECTION V - REFUSE, GARBAGE AND WASTE ACCEPTED:

Only that refuse, garbage and waste as is generated and

(If additional space is needed, please attach sheets of the same size as this and number each)

accumulated in the Town of Duaneburg or from such other areas as may be granted access to said sanitary landfill by the Town Board, either by resolution or by written contract, shall be accepted. No such refuse or waste shall be accepted which contains burning or smoldering substances, hazardous or toxic substances, or demolition debris, except for a small amount of wood, lumber or scraps from renovation projects.

SECTION VI - AUTOMOBILES AND MOTOR VEHICLES, WHITE WARE:

No person shall carry or leave or cause to be carried or left within the said sanitary landfill any junk automobile, vehicles, motorcycles, turcks or junk cars, either as a whole or dismantled, or any parts thereof, with the exception of tires. White ware defined as regrigerators, washers, dryers, water heaters, and etc. shall not be accepted unless express written permission is obtained from the Town Board and material is left in a Town designated area.

SECTION VII - CONDUCT AT THE SANITARY LANDFILL:

No person shall deposit waste in the sanitary landfill except in conformity with this Local Law and no person shall engage in conduct adversely affecting the quiet, efficient operation of the landfill or enter the landfill site for a purpose other than the purpose of the deposit of waste as heretofore provided. Hunting or shooting within or across the landfill site is expressly prohibited. Dump picking is absolutely prohibited.

SECTION VIII - REMOVAL AND TRANSPORTATION:

No person, firm, corporation, or governmental agency shall remove, transport or permit the removal or transportation of any offensive or toxic materials within the Town of Duaneburg, except in such a manner or by such conveyance as will prevent the creation of a nuisance or the loss or discharge of such material in any public place. All such material shall be so handled and covered so it cannot escape or be accessible to rodents, flies, or other insects or create a nuisance.

SECTION IX - RIGHTS OF THE TOWN DECLARED:

This Local Law shall not prohibit the establishment by the Town Board of a public dump, sanitary landfill, or construction and demolition disposal area owned and operated by the Town from time to time. No lands other than those dedicated by the Town of this purpose shall be used as a dumping ground, refuse disposal area or a landfill site in the Town of Duaneburg, County of Schenectady, New York.

SECTION X - DUMP OR SANITARY LANDFILL CONSTRUCTION:

No person, firm, corporation or other governmental authority or agency shall establish a public or private dump, sanitary landfill or refuse disposal area for private or public use within the Town of Duanesburg, unless express permission is granted by the Town Board and the New York State Department of Environmental Conservation.

SECTION XI - ENFORCEMENT AND PENALTIES FOR VIOLATIONS:

- a. The Town Board shall have the direct responsibility for the operation of said sanitary landfill and may make by resolution such rules and regulations which are not inconsistent with this Local Law and which are necessary for the efficient operation of the sanitary landfill.
- b. The Town Board, in keeping within the Town's Budgetary appropriations, shall have the right to employ persons to operate said landfill and may prescribe their duties and responsibilities. Said employees may exclude any person from the use of the sanitary landfill who have violated the provisions of this Local Law or any of the rules and regulations promulgated by the Town Board.
- c. Any person, firm or corporation who shall violate any of the provisions of this Local Law or the rules and regulations promulgated thereunder shall be guilty of a violation and upon conviction of said violation shall be punished by a fine of not more than One Thousand (\$1,000.00) Dollars for each violation or by imprisonment in the County Jail for a term not to exceed thirty (30) days or both fine and imprisonment. Each violation of this Local Law or the rules or the regulations promulgated thereunder shall constitute a separate offense and each day of violation constitutes a separate offense and shall be punishable as such hereunder.
- d. In addition to the penalties heretofore provided, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this Local Law, and the Town may recover all associated expenses, costs and disbursements incurred in such a proceeding, including but not limited to reasonable attorney's fees.
- e. This Local Law may be enforced by the Town Code Enforcement Officer, State Police, Sheriff's Department, Environmental Conservation Officers as well as by citizen's complaint. Any individual has the prerogative of filing a complaint with any of the above mentioned enforcement agencies.

SECTION XII - RELATION TO STATE SANITARY CODE:

Nothing in this Local Law shall be construed to supersede the standards contained in the New York State Sanitary Code. In the event of any dispute regarding which standards are applicable, this Local Law shall be interpreted by any Court of competent jurisdiction so that the more stringent shall prevail.

SECTION XIII - SEVERABILITY:

In the event that any portion of this Local Law shall be declared invalid by a court of competent jurisdiction, such invalidity shall not be deemed to affect the remaining portions hereof.

SECTION XIV - EFFECTIVE DATE:

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

Be it enacted this 8th day of June, 1989 by the Town Board of the Town of Duaneburg of Schenectady County, New York to be effective immediately.

William H. Park
Supervisor

James M. Bortone
Councilman

Patrick J. Hulse
Councilman

Thomas A. Lawrence
Councilman

John W. Darvell
Councilman

ATTEST:

Debra M. St. Mark
Town Clerk

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

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1989.....
~~CITY~~ of Duanesburg was duly passed by Town Board of the Town of Duanesburg,
~~TOWN~~ XXXX ~~VILLAGE~~ XXXX (Name of Legislative Body)
on June 8 1989 in accordance with the applicable provisions of law.

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

2. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County of the City of was duly passed by
Village of the Town of (Name of Legislative Body)
on 19..... and was approved by the
not disapproved Elective Chief Executive Officer
repassed after disapproval
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County of the City of was duly passed by the
Village of the Town of (Name of Legislative Body)
on 19..... and was approved by the
not disapproved Elective Chief Executive Officer
repassed after disapproval
on 19..... Such local law was submitted to the people by reason of a mandatory referendum and received the affirmative vote of a majority of the qualified electors voting permissive general thereon at the special election held on 19....., in accordance with the applicable provisions of law.

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

4. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County of the City of was duly passed by the on
Village of the Town of (Name of Legislative Body)
..... 19..... and was approved by the on
not disapproved Elective Chief Executive Officer
repassed after disapproval
..... 19..... Such local law being subject to a permissive referendum and no valid petition requesting such referendum having been filed, said local law was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

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

5. I hereby certify that the local law annexed hereto, designated as local law No. ...1..... of 19 89... of the City of having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on the became operative.

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

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

Sheela M. Stewart
Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer
designated by Local Legislative Body

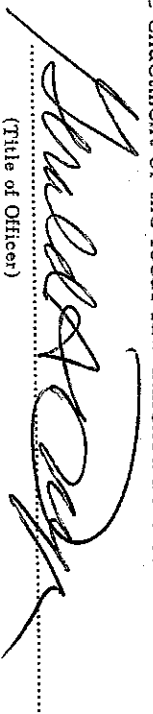
Date: June 13, 1989

(Seal)

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

STATE OF NEW YORK
COUNTY OF ...SCHENECTADY.....

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


(Title of Officer)

~~COUNTY~~
~~TOWN~~ of Duanesburg.....
~~VILLAGE~~

Dated:
June 13, 1989

DUANESBURG

LL2 2000 WORK PERMITS – ROADS

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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

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

~~COUNTY~~

~~CITY~~

~~TOWN~~

~~VILLAGE~~

of... Duanesburg

Local Law No.2..... of the year 2000..

A local law ~~...To amend the Street and Road Ordinance of the Town of Duanesburg,~~
(Insert Title)

~~County of Schenectady and State of New York by Adding Section 8.5~~

~~Entitled "Permits For Work Within The Town Road Right Of Way".~~

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

~~COUNTY~~

~~CITY~~

~~TOWN~~

~~VILLAGE~~

of... Duanesburg as follows:

One copy of Local Law Attached.

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

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

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

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

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

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

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

Rebekah Benson

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

(Seal)

Date: May 23, 2000

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

STATE OF NEW YORK
COUNTY OF Schenectady

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

Edward C. Smith Jr.

Signature

Town Attorney

Title

County

City

Town

Village

of Duanesburg

Date: 5/23/00

LOCAL LAW NO. 2 FOR THE YEAR 2000

A LOCAL LAW TO AMEND THE STREET AND ROAD ORDINANCE OF THE TOWN OF DUANESBURG, COUNTY OF SCHENECTADY AND STATE OF NEW YORK BY ADDING SECTION 8.5 ENTITLED "PERMITS FOR WORK WITHIN THE TOWN ROAD RIGHT OF WAY"

SECTION 8.5 PERMITS FOR WORK WITHIN THE TOWN ROAD RIGHT OF WAY

1. Except in connection with the construction, reconstruction, maintenance or improvement of a town road, no person, firm, corporation or municipality shall construct or improve within the town road right of way an entrance or connection to such road, or construct within the town road right of way any works, structure or obstruction, or any overhead or underground crossing thereof, or lay or maintain any underground wires or conduits or drainage, sewer or water pipes, except in accordance with the terms and conditions of a written work permit issued by the Town Highway Superintendent.
2. The Town Highway Superintendent and Town Engineer shall establish the written conditions and regulations governing the issuance of road right of way permits including the fees to be charged therefore (subject to Town Board approval), a system of deposits or money or bonds guaranteeing the performance of the work and requirements of insurance to protect the interests of the town during the performance of the work pursuant to the road work permit.
3. Upon completion of the work within the town road right of way, authorized by the work permit, the person, firm, corporation or municipality, and his or its successors in interest, shall be responsible for the maintenance and repair of such work or portion of such work as set forth within the terms and conditions of the work permit.
4. The term "town road right of way" shall, for the purposes of this section, mean the entire width between the boundary line of all property which has been purchased or appropriated by the town for town road purposes, all property over which the Town Highway Superintendent or his predecessors has assumed jurisdiction for town road purposes, all property over which the Town Highway Superintendent has assumed jurisdiction during the period of construction, reconstruction or improvement and all property which has become part of the town road system through use or dedication.
5. Any person, firm or corporation, their heirs, successors in interest or assigns, in violation of this section shall, in addition to being liable for the applicable fine, be subject to removal therefrom as a trespasser by the Town Highway Superintendent upon petition to the county court of the county or to the supreme court of the state

DUANESBURG

LL3 2005 SEWER AMENDMENT

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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

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

~~County~~
~~City~~ of Duanesburg
Town
~~Village~~

Local Law No. 3 of the year 2005

A local law TO ACCEPT SEWER USE LAW WITH AMENDMENTS TOWN OF
(Insert Title)
DUANESBURG

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

~~County~~
~~City~~ of Duanesburg as follows:
Town
~~Village~~ See Attached

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ 3 _____ of 20⁰⁵ of the ~~(County)~~~~(City)~~(Town)~~(Village)~~ of _____ Duaneburg _____ was duly passed by the _____ Duaneburg Town Board _____ on July 14, 2005, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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

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

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

Deborah M. Deacon

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

(Seal)

Date: July 26, 2005

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

STATE OF NEW YORK
COUNTY OF Schenectady

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

Edward J. ...

Signature

Attorney for the Town

Title

~~County~~
~~City~~ of Duanesburg
~~Town~~
~~Village~~

Date: 7/27/05

Section 611 A – Building Lateral / Street Lateral Connection

Amend item (2)

For vacant parcels within the sewer district that do not have frontage on a Town, County or State Road, it shall be the property owners responsibility to extend the sewer to their property at such time they have a valid building permit for the lot. The property owner shall also be responsible to obtain any necessary easements for the sewer pipe Installation.

Add item:

(7) Residential Grinder pump units are installed as part of new Sewer District Construction projects for homes that cannot connect to the system by gravity. The cost of the pump, basin, forcemain, control panel and electrical connection to the existing breaker panel in the home is borne by the District as well as future pump maintenance. An easement agreement must be signed by the property owner for this work to be done. The homeowner is required to make the building lateral connection to the grinder pump basin. In the event that the homes electric service or breaker panel are not large enough to accommodate the 30 Amp 2 pole breaker, the homeowner will be responsible for any necessary upgrades to their existing facilities.

Renummer Section 616 – Costs Borne by Owner to become Section 617.

Add the following Section:

Section 616 – Backflow Prevention

When a building has plumbing facilities in the basement such as washing machine drain line, sinks, toilets, shower, etc., a backflow prevention device is strongly recommended to be installed to protect these units from a sewer line backup into the building. The property owner shall be responsible for the proper maintenance of a backflow prevention device, if installed. The Town shall not be held responsible for repairs or cleanup costs resulting from a sewage backup into the building under any circumstances.

**TOWN OF DUANESBURG
SEWER USE LAW
ADDENDUM NO. 2**

A) Amend Section 1103 to establish the fees for permits for the Mariaville Lake Sewer District No. 2 in the year 2005 as follows;

- The permit fee for residential, commercial, or industrial laterals shall be set at \$30.00.
- The connection fee shall be set at \$1,000 per user, except that the connection fee shall be waived for properties within the district if the permit is obtained before June 30th, 2006.

- The Administrative Surcharge Fee for 2005 shall be prorated by month in accordance with table 1 shown on the next page. (attached)

The above fees along with the prorated O&M costs for the remainder of the year shall be paid at the time of permit application.

Year	Month	Permit Fee	Administrative Surcharge	Prorated O & M	Connection Fee	Total Permit Fee
2005	July	30	0	230	0	260
	August	30	20	210	0	260
	September	30	40	190	0	260
	October	30	60	170	0	260
	November	30	80	150	0	260
	December	30	100	130	0	260
	2006	January	30	120	110	0
February		30	140	90	0	260
March		30	160	70	0	260
April		30	180	50	0	260
May		30	200	30	0	260
June		30	220	10	0	260
July		30	0	0	1000	1030

Amend the User Unit Schedule provided in Appendix B to add Classification #18, Bed and Breakfast and classification #19 Significant Commercial User Note 6, each of which are attached.

APPENDIX B USER UNIT SCHEDULE

CLASSIFICATION #	CLASSIFICATION DESCRIPTION	# OF USER UNITS (EDU's) PER CLASSIFICATION
1.	Commercial/Industrial Enterprise: a) less than 5 employees b) 6 - 10 employees c) 11 - 20 employees d) (1-1/2 EDU's for every 10 or portion thereof)	1 Unit 1½ Units 3 Units
2.	Single Family Residence (see note 1)	1 Unit
2a.	Two Family Residence	2 Units
2b.	For each additional apartment unit above two (see note 2)	½ Unit

3.	Library	1 Unit
4.	Convenient/Deli Store	1½ Units
5.	Beauty or Barber Shop	1 Unit
6.	Restaurant/Bar a) 0 - 45 Occupancy b) 46 - 90 Occupancy c) 91 - 135 Occupancy d) (2 EDU's for every 45 or portion thereof)	2 Units 3 Units 5 Units
7.	Commercial Laundromat (per five washers or portion thereof)	2 Units
8.	Post Office	1 Unit
9.	Nursing/Adult Homes (Single Family Residence plus charge per bed)	1 Unit plus ¼ Unit for each bed.
10.	Motel, Hotel (per room) w/o Restaurant	¼ Unit
11.	Fire Department	1 Unit
12.	Churches	½ Unit
13.	Church Hall	1 Unit
14.	Rectory	1 Unit
15.	School (see note 3)	1 Unit for 10 persons
16.	Vacant Lot (see Note 4)	½ Unit
17.	Vacant Commercial/Business Parcel (See Note 5)	1 Unit for every 4 Acres
18.	Bed and Breakfast	1 Unit plus ¼ Unit for each bedroom
19.	Significant Commercial User (See Note 6)	1 Unit per 75,000 gallons metered usage

Note 1: A single property which is used as **both: 1. a residence and 2. a business**, in which its only employees are the property owner and immediate family members, all of whom reside on the premises, shall be treated the same as residential properties with a "Home Occupation" and shall be classified under Item 2 on the above schedule and, therefore, assigned 1 EDU. If public bathroom facilities are provided as part of the home occupation, or if significant additional wastewater is generated above normal residential usage, then the Town Board may assess additional units in accordance with the Table above.

Note 2: To qualify for the 1/2 unit reduction for 3 or more apartment units, all units must be in the same building.

Note 3: Under Classification #15, School, the number of persons to be used to determine the number of units will include students only.

Note 4: The term "vacant lot" as used in the foregoing schedule shall refer to any lot which meets the building and zoning code requirements for a single family residence.

Note 5: If a parcel within the Sewer District boundaries is also in a General Business District zoning of the Village of Delanson or a Commercial Zone of the Town of Duanesburg and larger than 4.0 acres, then this parcel shall be assigned 1.00 EDU's for each 4 acres. Parcels over 4 acres shall be incrementally assigned additional EDU's by dividing the acreage by 4. If a property in the Commercial or General Business District is used solely for residential use, then the EDU charge for this parcel shall follow residential calculations for EDU's. If said parcel is occupied for General Business purposes, then the EDU charge shall be the larger of either the EDU charged as calculated by No. 17, or as per the User Unit Schedule as applicable to the current use of the property.

Note 6: A Significant Commercial user (SCU) shall refer to any commercial user that is not specifically identified in the User Unit Schedule under another classification number. The SCU shall be charged a minimum of one EDU and one EDU for every additional 75,000 gallons or portion thereof for sewage it generates. The SCU shall install and maintain a sewage flow meter for the purpose of billing sewer charges. The Sewer District shall have the right to inspect and record readings from the meter at any time, but not less than once per year.

DUANESBURG

LL3 2016 AMENDMENT TO SUBDIVISION ORDINANCE

Local Law Filing

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

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

County City Town Village
(Select one.)

of Duanesburg

FILED
STATE RECORDS

DEC 09 2016

DEPARTMENT OF STATE

Local Law No. 3 of the year 20 16

A local law Amending the Subdivision Ordinance of the Town of Duanesburg
(Insert Title)

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

County City Town Village
(Select one.)

of Duanesburg

as follows:

See attached.

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

TOWN OF DUANESBURG LOCAL LAW NO. 3 OF 2016

**A LOCAL LAW AMENDING THE SUBDIVISION ORDINANCE OF THE
TOWN OF DUANESBURG**

BE IT ENACTED by the Town Board of the Town of Duaneburg, in the County of Schenectady, as follows:

Section 1. Title of Local Law.

This Local Law shall be entitled "A Local Law Amending the Subdivision Ordinance of the Town of Duaneburg".

Section 2. Authorization.

This Local Law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

Section 3. Purpose.

It is the intent and purpose of this Local Law to clarify the distinction between a subdivision of land which is subject to full scrutiny, review and approval by the Town Planning Board, and a mere lot line adjustment or minor subdivision (consisting of no more than two lots) which should be considered and permitted with a minimum burden imposed upon the involved property owner(s).

Section 4. Amendments to Article 2 of the Subdivision Ordinance titled "Definitions".

Article 2 is hereby amended to add the following new definition:

LOT LINE ADJUSTMENT - The relocation or revision of the boundary line of a lot to change the area of said lot and of an existing adjacent lot or lots, and which does not create any additional number of lots. A lot line adjustment shall not be considered a subdivision or a resubdivision.

Section 5. Amendments to Article 3 of the Subdivision Ordinance titled "Platting Procedures".

Section 3.3 of Article 3 is hereby repealed and replaced with:

Section 3.3 Pre-Application Review

.1 Requirements. 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.

2 Sketch Plan. The sketch plan initially submitted to the Planning Board shall be based on the 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 vicinity map at a scale of one inch equals 2,000 feet indicating 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 physical features, within the portion to be subdivided and within two hundred (200) feet thereof;
- (c) All the utilities available at the property, and all streets which are either proposed, mapped or built;
- (d) Contour lines at interval 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, sewage utilities, and water supply (see Section 6.6), within the subdivided area, as well as 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 subdivision; 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 (500) feet along the road.

3 Classification. The Planning Board shall determine whether the sketch plan illustrates a Lot Line Adjustment, a Minor or a Major 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, and not otherwise exempt under Section 3.3.3, 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.

4 Exemptions. The Planning Board may, in its discretion, exempt Lot Line Adjustments or Minor Subdivisions from full scrutiny, review and approval by the Town Planning Board, as required by Section 3.4. The determination as to whether any proposed action should be exempt shall be within the reasonable interpretation and discretion of the Planning Board and shall only be considered upon application made and good cause shown by the owner(s) of the affected lots. If the Planning Board so determines that the proposed action neither creates nor increases any significant planning issues with respect to the existing or potential future use of any involved parcel(s), and in the instance of a Lot Line Adjustment, that no additional lots will be created as a result of the lot line adjustment, the Planning Board may, at its discretion, declare the proposed action to be exempt from any further subdivision review pursuant to this Article, whereupon it shall refer the application to the Code Enforcement Officer to complete the administration of the same.

Notwithstanding anything to the contrary, in the event the Planning Board is of the opinion that the primary purpose and intent of the proposed action is to develop the affected lot(s) in circumvention of the otherwise applicable subdivision review and proceedings, the application to treat such action as a Lot Line Adjustment may properly be denied.

5 SEQRA. In accordance with its authority under the State Environmental Quality Review Act (SEQRA) regulations, particularly 6 NYCRR 617.5(b), the Town of Duanesburg hereby adopts the following actions as Type II actions that are not subject to review under SEQRA:

- (a) Lot line adjustments
- (b) Exempt minor subdivisions

Section 6. Supercession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Subdivision Ordinance herein addressed, in so far as such statutes are inconsistent with this Law and any other laws or regulations of the Town of Duanesburg are superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same.

Section 7. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 8. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 16 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Duanesburg Town Board on November 10, 20 16, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

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

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (06)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

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

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

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

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



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

Date: 12/5/2016

(Seal)



RECEIVED

NOV 10 2016

TOWN OF DUANESBURG
TOWN CLERK

Town of Duanesburg Town Board

RESOLUTION # 130-16

November 10, 2016

WHEREAS, pursuant to Municipal Home Rule Law §10, "every local government shall have power to adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law relating to its property, affairs or government"; and

WHEREAS, the Planning Board of the Town of Duanesburg (the "Planning Board") requested that the Town Board examine the Town Zoning Ordinance and Subdivision Law to revise them such that for lot line adjustments and two lot subdivisions the Planning Board's review could be streamlined; and

WHEREAS, the goal of this request was to shorten the review time for such minor applications and to ease the cost and complexity of such reviews, which costs are borne by the owners of property in the Town; and

WHEREAS, the Town Board has caused to be drafted and the Planning Board has participated in the drafting of two local laws which have been created to address the Planning Board's request.

NOW THEREFORE BE IT RESOLVED, that each member of the Town Board has received the attached proposed local laws amending the Town Zoning Ordinance and the Town Subdivision law; and

BE IT FURTHER RESOLVED,

That the Town Board directs the Town Clerk to provide the text of the local laws and the completed Short EAF to the Schenectady County Planning Department for its review pursuant to the NYS General Municipal Law §239-m; and

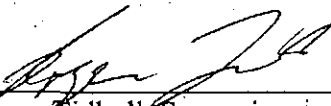
That the Town Board declares its intent to be SEQRA lead agency for the review of this Unlisted action; and

That the Town Board directs the Town Clerk to formally refer the local laws to both the Town of Duanesburg Planning Board and to the Town of Duanesburg Zoning Board of Appeals for their comments, if any, on the local laws; and

That the Town Board directs the Town Clerk to publish a separate notice of public hearing on each of the local laws in the Schenectady Gazette, each to appear once no later than ten (10) days before the date of the public hearing which shall take place at the regular meeting of the Town of Duanesburg Town Board at the Town Offices at 5853 Western Turnpike, Duanesburg, NY 12056 on December 8, 2016 at 6:45 p.m. and that such Notice of Public

Hearing accompanied by the Local Laws shall be and provided to the adjoining municipalities as required by the NYS General Municipal Law §239-nn.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting on November 10, 2016.



Roger Tidball, Supervisor



Diane M. Ferrara, Town Clerk

Present: Council Members Ganther, Potter, Passonno and Supervisor Tidball
Absent: Council Member Leoni

Council Members:

Leoni	<u>absent</u>
Passonno	<u>abs</u>
Ganther	<u>abs</u>
Potter	<u>abs</u>
Supervisor Tidball	<u>abs</u>



DUANESBURG

LL3 2018 ZONING AMENDMENT

Local Law Filing

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

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

FILED
STATE RECORDS

JUN 29 2018

County City Town Village

(Select one:)

of Duanesburg

DEPARTMENT OF STATE

Local Law No. 3 of the year 2018

A local law amending the zoning map of the Town of Duanesburg to re-zone tax map parcel no.

(Insert Title)

66.00-4-2.31 from c-2 (commercial and light industrial) to r-1 (high density residential)

excepting a small portion of the tax map parcel which remains zoned hamlet.

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

County City Town Village

(Select one:)

of Duanesburg

as follows:

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

TOWN OF DUANESBURG LOCAL LAW NO. 3 OF 2018

A LOCAL LAW AMENDING THE ZONING MAP OF THE TOWN OF DUANESBURG TO RE-ZONE TAX MAP PARCEL NO. 66.00-4-2.31 FROM C-2 (COMMERCIAL AND LIGHT INDUSTRIAL) TO R-1 (HIGH-DENSITY RESIDENTIAL), EXCEPTING A SMALL PORTION OF THE TAX MAP PARCEL WHICH WILL REMAIN ZONED HAMLET

BE IT ENACTED by the Town Board of the Town of Duanesburg in the County of Schenectady as follows:

Section 1. Title of the Local Law.

This local law shall be entitled "A Local Law Amending the Zoning Map of the Town of Duanesburg to Re-Zone Tax Map Parcel No. 66.00-4-2.31 From C-2 (Commercial and Light Industrial) to R-1 (High-Density Residential), excepting a small portion of the Tax Map Parcel which will remain zoned Hamlet."

Section 2. Authorization.

This local law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

Section 3. Purpose.

The Town of Duanesburg has received an application from the owner of tax map parcel #66.00-4-2.31 which comprises +/- 50 acres on both sides of Duanesburg Road (NYS Route 7) as you enter the hamlet of Duanesburg. This property is currently zoned C-2 (Commercial and Light Industrial) and Hamlet and the owner has requested that the portion of the tax map parcel zoned C-2 be changed to R-1 (High Density Residential). The Town Board finds that this request for a zone change is consistent with the Comprehensive Plan and the character of the community along Duanesburg Road at this location.

Section 4. Zoning Map Amendment

The Town of Duanesburg Zoning Map is hereby amended to show the change of #66.00-4-2.31 from C-2 (Commercial and Light Industrial) to R-1 (High Density Residential), with the exception of the portion of the tax map parcel zoned Hamlet which shall remain as Hamlet, as set forth on the attached map.

Section 5. Supersession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Town of Duanesburg Town Code, in so far as such statutes are inconsistent with this Local Law and any other laws or regulations of the Town of Duanesburg are

superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same.

Section 6. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 7. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2018 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town Board on June 28 2018, in accordance with the applicable (Name of Legislative Body) provisions of law.

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

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

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

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

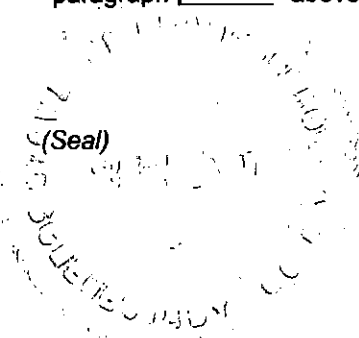
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule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

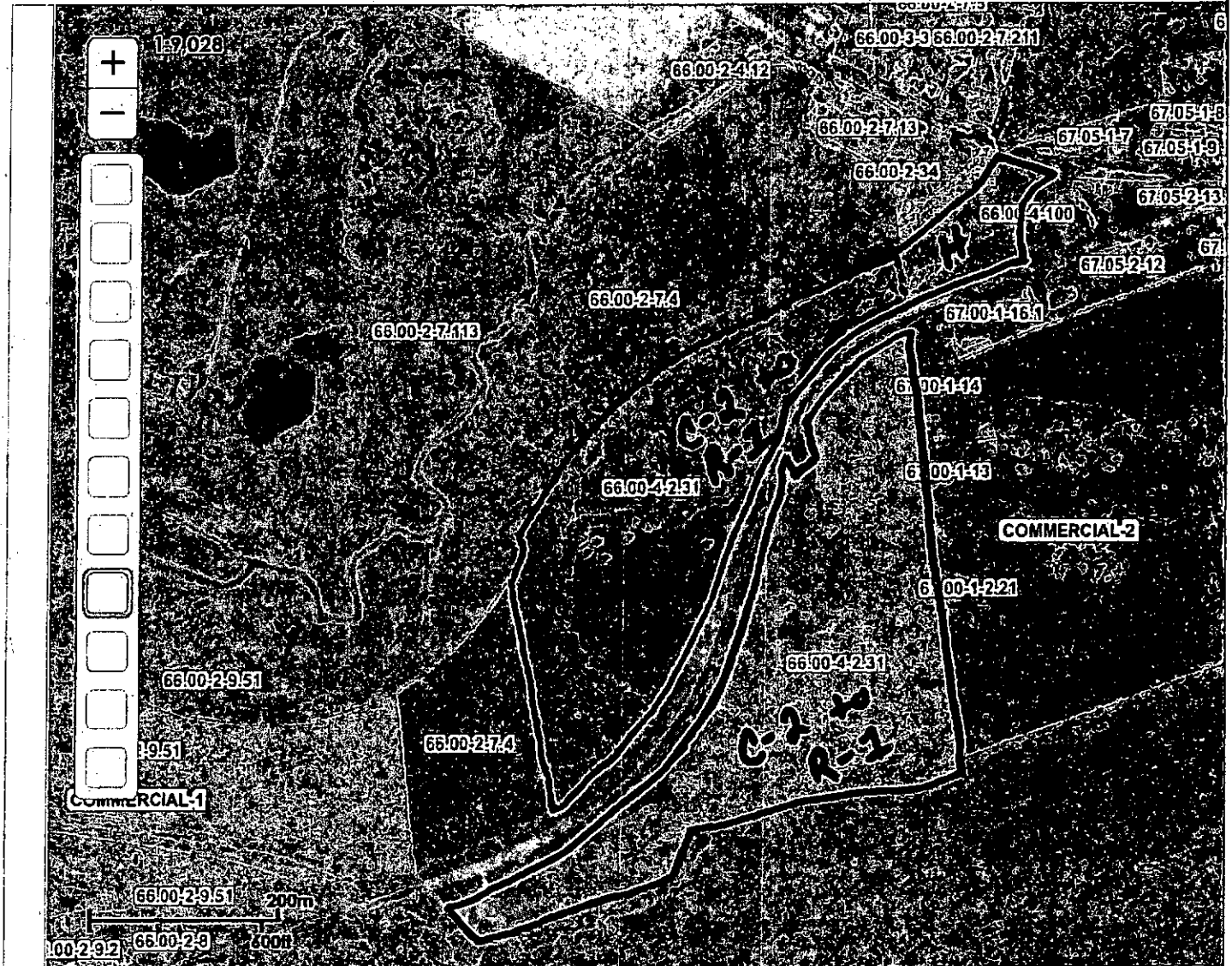
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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

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

Date: June 29, 2018





DUANESBURG

LL6 2001 SEWER USE LAW

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

99

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

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

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

JAN 07 2002

MISCELLANEOUS
& STATE RECORDS

~~County~~
~~City~~
Town
~~Village~~

of Duanesburg

Local Law No. 6 of the year 2001

A local law Town of Duanesburg Sewer Use Law
(Insert Title)

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

~~County~~
~~City~~
Town
~~Village~~

of Duanesburg

as follows:

Town of Duanesburg Sewer Use Law

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the ~~(County)~~(City)(Town)(Village) of _____ was duly passed by the _____ on _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

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

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

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

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

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

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

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

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

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

Deed M. Benson

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

(Seal)

Date: January 3, 2002

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

STATE OF NEW YORK
COUNTY OF Schenectady

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

Edward C. Smith Jr.

Signature

Town Attorney
Title

~~County~~
~~City~~ of Duanesburg
Town
~~Village~~

Date: 1/3/02

FINAL

Resolution # 64-01 April 12, 2001

**TOWN OF DUANESBURG
SEWER USE LAW**

(Incorporating Federal Pretreatment Language)

Developed from Model Sewer Use Law
provided by
New York State
Department of Environmental Conservation
(1994 Revision)

Enacted April 12, 2001

Town of Duaneburg
Sewer Use Law

TOWN OF DUANESBURG
SEWER USE LAW
(WHICH INCORPORATES FEDERAL PRETREATMENT LANGUAGE)

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Town of Duanesburg
Sewer Use Law

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Town of Duanesburg Sewer Use Law

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Town of Duanesburg Sewer Use Law

ARTICLE 1

SHORT TITLE AND PURPOSE

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Section 102 - General Purpose
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Section 101 - Short Title

For brevity and ease of communication, this Law may be cited as the Town Sewer Use Law.

Section 102 - General Purpose

The general purpose of this Law is the following:

To provide for efficient, economic, environmentally safe, and legal operation of the Town Publicly Owned Treatment Works (POTW), and Sanitary Sewer Collection System.

Section 103 - Specific Purposes

The specific purposes of this Law are the following:

- (1) To prevent the introduction of substances into the POTW that will:
 - (a) interfere with the POTW in any way,
 - (b) pass through the POTW to the state's waters and cause contravention of standards for those waters or cause violation of the POTW's SPDES permit,
 - (c) increase the cost or otherwise hamper the disposal of POTW sludge and/or residuals,
 - (d) endanger municipal employees,
 - (e) cause air pollution, or groundwater pollution, directly or indirectly,
 - (f) cause, directly or indirectly, any public nuisance condition.
- (2) To prevent new sources of infiltration and inflow and, as much as possible, eliminate existing sources of infiltration and inflow.

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- (3) To assure that new sewers and connections are properly constructed.
- (4) To provide for equitable distribution to all users of the POTW of all costs, associated with sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.

END OF ARTICLE 1

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ARTICLE 2

DEFINITIONS

Section 201 - Defined Terms
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Section 201 - Defined Terms

Unless otherwise stated in the section where the term is used in this Law, the meaning of terms used in this Law shall be as stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. Shall is mandatory; may is permissive.

Abnormal Sewage - Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See normal sewage.

Act or "THE ACT" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., as may be amended.

Administrator - The Regional Administrator of the U. S. Environmental Protection Agency (USEPA), Region 2.

Ammonia - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

Applicant - That person who makes application for any permit. The applicant may be an owner, new or old, or his agent.

Approval Authority - The USEPA, or the New York State Department of Environmental Conservation (NYSDEC), in the event the NYSDEC is delegated approval authority responsibility by the USEPA.

Approved Laboratory Procedure - The procedures defined as 'Standard Methods' in this article, or other procedures approved by the Town Board, for determination of the concentration of pollutants or their surrogates in waters, wastewaters, and/or sludges.

ASTM, denoting American Society for Testing and Materials - The latest edition of any ASTM specification, when stipulated in this Law.

Authorized Representative of the Industrial User - An authorized representative of the industrial user may be :

- (a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

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- (b) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;
- (c) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Board of Commissioners - The members of the Duanesburg Town Board shall act as the Board of Commissioners.

BOD, denoting Biochemical Oxygen Demand - The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the aerobic biochemical oxidation of organic matter or in a sample, expressed in milligrams per liter.

Builder - Any person who undertakes to construct a building or any part of a building, either under contract or for resale.

Building Drain - That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the building walls, and conveys it to the building lateral, which begins five (5) feet outside the inner face of the building wall.

Chlorine Demand - The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

COD, denoting Chemical Oxygen Demand - The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter, in a sample, that is susceptible to oxidation, by a specific chemical oxidant, expressed in milligrams per liter.

Code Enforcement Officer (CEO) - The Town of Duanesburg Uniform Code Enforcement Officer.

Color - The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

Composite Sample - The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

Connection - Attachment of one user to a sewer. (See Extension)

Control Authority - The term shall refer to "Approval Authority", or to the Town Board when Town has an approved pretreatment program under the provisions of 40 CFR 403.11.

Control Manhole - A manhole accessible to the Control Authority in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

Conventional Pollutant - A pollutant that the POTW treatment plant was designed to treat, defined in accordance with the Act.

Town of Duaneburg Sewer Use Law

Cooling Water - The water discharged from any system of condensation, air conditioning, refrigeration, or other sources. It shall contain no polluting substances which would produce COD or suspended solids in excess of five (5) milligrams per liter, or toxic substances, as limited elsewhere in this Law.

County - The county in which the Town is located. (Schenectady County, New York)

Designated Representative - The Town Board shall appoint by resolution, an individual or individuals to enforce the rules and regulations herein promulgated, and to carry out the day to day duties as required under this Sewer Use Law as the representative of the Town Board.

Developer - Any person who subdivides land for the purpose of constructing, or causing to be constructed, buildings for which wastewater disposal facilities are required.

Direct Discharge - The discharge of treated or untreated wastewater directly to the Waters of the State of New York. (For reference, see Indirect Discharge.)

Domestic Wastes - see Sewage, Domestic.

Dry Sanitary Sewers - The sanitary sewer installed in anticipation of future connection to a POTW but which is not used, in the meantime, for transport of sanitary sewage.

End of Pipe - For the purpose of determining compliance with limitations prescribed by Article 8, end of pipe shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.

End of Pipe Concentration - The concentration of a substance in a sample of wastewater at end of pipe.

End of Process Concentration - see National Categorical Pretreatment Standard.

Easement - An acquired legal right for the specific use of land owned by others.

EPA, USEPA, or U.S. Environmental Protection Agency - The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules, and regulations. Also may be used as a designation for the Administrator or other duly authorized official of this Agency.

Extension - Attachment of a sewer line, with more than one user, to an existing sewer line.

Facility - All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.

Floatable Oil - Oil, grease, or fat in a physical state such that it will separate by gravity from wastewater by treatment in a wastewater treatment facility.

Flow Rate - The quantity of liquid or waste that flows in a certain period of time.

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Garbage - The solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, and sale of produce, and from the packaging and canning of food.

Grab Sample - A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater at one point and time.

ICS Form - The form used by the NYSDEC to survey industries to perform and update the Industrial Chemical Survey.

Indirect Discharge - The introduction of wastewater into a POTW for treatment and ultimate discharge of the treated effluent to the State's Waters. (For reference, see Direct Discharge)

Industrial - Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

Industrial Chemical Survey (ICS) - The survey of industries in New York State, initiated by the NYSDEC, to determine chemical usage and storage by those industries.

Industrial User - See User, Industrial

Industrial Wastes - The liquid or liquid-carried solid, liquid and/or gaseous wastes from industrial manufacturing processes, trade, service, utility, or business, as distinct from sanitary sewage.

Infiltration - Water, other than wastewater, that enters a sewer system (excluding building drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

Inflow - Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

Interference - A discharge which, alone or in conjunction with discharges by other sources,

(a) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) therefore is a cause of a violation of any requirement of the Town POTW's SPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

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- i - Section 405 of the Clean Water Act
- ii - Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act - RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D or the SWDA),
- iii - Clean Air Act,
- iv - Toxic Substance Control Act, and
- v - Marine Protection Research and Sanctuaries Act.

Lateral, Building - The portion of the sewer lateral between the building drain and street lateral. The building lateral is owned and maintained by the property owner.

Lateral, Street - The portion of the sewer lateral between the public collection sewer and the property line. The street lateral is maintained and kept operational by the property owner. The sewer district owns the street lateral and is responsible for replacement or repair of the street lateral within the public right of way.

National Categorical Pretreatment Standard, or Categorical Standard - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

National Pollutant Discharge Elimination System (NPDES) Permit - A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

National Prohibitive Discharge Standard, or Prohibitive Discharge Standard - Any regulation developed under the authority of Section 307 (B) of the Act, and 40 CFR, Section 403.5.

Natural Outlet - Any outlet, including storm sewers and combined sewer overflows, to State's Waters.

New Owner - That individual or entity who purchased property within the Service Area of the Sewer District after the effective date of this law.

New Source - Any source, the construction of which is commenced after the publication of the proposed regulation prescribing a Section 307 (C) (33 U.S.C 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated.

Normal Sewage - see Sewage, Normal.

Nuisance - The use or lack of use of the POTW in such a manner so as to endanger life or health, give offense to the senses, or obstruct or otherwise interfere with the reasonable use or maintenance of the POTW.

Town of Duaneburg Sewer Use Law

Oil and Grease - The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease, and oil, in a sample, expressed in milligrams per liter.

Old Owner - That individual or entity who owns or owned a property, within the Service Area of the POTW, purchased prior to the effective date of this Law, who owned or inherited the property at any time and intends to sell the property, or has sold the property to a new owner, also the agent of the old owner.

Other Wastes - Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

Pass Through - The discharge which exits the Sewer District POTW into waters of the State in quantities, which, alone or in conjunction with Discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

Permit - A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Law.

Person - Any individual, public or private corporation, political subdivision, Federal, State, or local agency or entity, association, trust, estate or any other legal entity whatsoever.

pH - The logarithm (base 10) of the reciprocal of the weight of hydrogen ions, in gram moles per liter of solution. A pH value of 7.0, the pH scale midpoint, represents neutrality. Values above 7.0 represent alkaline conditions. Values below 7.0 represent acid conditions.

Phosphorus, total - See total phosphorus.

Pollutant - Any material placed into or onto the State's waters, lands and/or airs, which interferes with the beneficial use of that water, land and/or air by any living thing at any time.

Pollution - The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of the State's waters, lands and/or airs resulting from the introduction of a pollutant into these media.

Pretreatment (Treatment) - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be achieved by physical, chemical, or biological process, process changes, or by other means, except as prohibited by 40 CFR, Section 403.6 (D).

Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Pretreatment Standard or National Pretreatment Standard - Any Categorical Standard or Prohibitive Discharge Standard.

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Priority Pollutants - The most recently revised or updated list, developed by the EPA, in accordance with the Act.

Prohibitive Discharge Standard - see National Prohibitive Discharge Standard.

Properly Shredded Garbage - The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and with no particle having a dimension greater than one-half (1/2) inch in any dimension.

POTW Treatment Plant - That portion of the POTW designed to provide treatment to wastewater, and to treat sludge and residuals derived from such treatment.

Publicly Owned Treatment Works (POTW) - A treatment works, as defined by Section 212 of the Act, (33 U.S.C 1292), which is owned, in this instance, by the Sewer District. This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

Receiving Waters - A natural water course or body of water (usually Waters of the State) into which treated or untreated sewage is discharged.

Records - Shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, graphs and inspection reports. For the purposes of this law, records shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.

Roof Drain - A drain installed to receive water collecting on the surface of a roof for disposal.

Septage - All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved type of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions and industries. Also sludge from small sewage treatment plants. Septage shall not have been contaminated with substances of concern or priority pollutants.

Septic Tank - A private domestic sewage treatment system consisting of an underground tank (with suitable baffling), constructed in accordance with any and/or all local and State requirements.

Service Area of the Sewer District - The Service Area is the legally defined bounds of real property from which wastewater may be discharged into the POTW. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated by action of the Town Board.

Town of Duanesburg Sewer Use Law

Sewage - A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, and such ground, surface, and storm water as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered "sewage", within the meaning of this definition.

Sewage, Domestic (Domestic Wastes) - Liquid wastes from the non-commercial preparation, cooking, and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings, and institutions, or liquid wastes from clothes washing and/or floor/wall washing. Therefore, domestic sewage includes both black water and grey water. (See Sewage, Sanitary)

Sewage, Normal - Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- (a) B.O.D. (Five Day) - 2090 lbs. per million gallons (250 milligrams per liter), or less.
- (b) Suspended Solids - 2500 lbs. per million gallons (300 milligrams per liter), or less.
- (c) Phosphorus - 125 lbs. per million gallons (15 milligrams per liter), or less.
- (d) Ammonia - 250 lbs. per million gallons (30 milligrams per liter), or less.
- (e) Total Kjeldahl Nitrogen - 417 lbs. per million (50 milligrams per liter), or less.
- (f) Chlorine Demand - 209 lbs. per million gallons (25 milligrams per liter), or less.
- (g) Chemical Oxygen Demand - 2920 lbs. per million gallons (350 milligrams per liter), or less
- (h) Oil and Grease - 830 lbs. per million gallons (100 milligrams per liter), or less.

In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered normal sewage.

Sewage, Sanitary - Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm water, surface water, industrial, and other wastes. (See Domestic Wastes)

Sewage Treatment Plant (Water Pollution Control Plant) - see POTW Treatment Plant

Sewage, Unusual Strength or Character - Sewage which has characteristics greater than those of Normal Sewage and /or which contains Substances of Concern.

Sewer - A pipe or conduit for carrying or transporting sewage.

Sewer Advisory Board - The Sewer Advisory Board shall consist of the Sewer Department Chairperson (as appointed by the Town Supervisor), The Code Enforcement Officer, and five property owners who reside within the Sewer District, as appointed by the Town Board. The role of the Sewer Advisory Board is to advise the Town Board on any issues that involve the Sewer District.

Town of Duaneburg Sewer Use Law

Sewer, Combined - A sewer designed to receive and transport both surface runoff and sewage.

Sewer Department Chairperson - That member of the Town Board designated by the Town Supervisor as the Sewer Department Chairperson, the Councilperson in charge of overseeing the Sewer Department and to act as liaison between the Town Board and the Sewer District.

Sewer, Public - The portion of the sewer system that is on public property, or that is within an easement that has been granted to the Sewer District.

Sewer, Sanitary - A sewer which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

Sewer, Storm (Storm Drain) - A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

Sewerage System (also POTW) - All facilities for collecting, regulating, pumping, and transporting wastewater to and away from the POTW treatment plant.

Sewerage Surcharge - The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage.

Significant Industrial User - see User, Significant Industrial

Significant Non-Compliance (SNC) - A User is in significant non-compliance if its violation(s) meet(s) one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined here as those, in sixty-six (66) percent or more of all of the measurements taken during a six-month period, which exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter;
- (b) Technical Review Criteria (TRC) violations, defined here as those, in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period, which equal or exceed the product of the daily maximum limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; TRC = 1.2 for all other pollutants);
- (c) Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the DPW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the DPW's exercise of its emergency authority under Article 10 of this Law;
- (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance

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- (f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to report accurately any non-compliance;
- (h) Any other violation which the DPW determines will adversely affect the implementation or operation of the local pretreatment program.

Slug - A substantial deviation from normal rates of discharge or constituent concentration (see normal sewage) sufficient to cause interference. In any event, a discharge which, in concentration of any constituent or in quantity of flow, that exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal user operations, shall constitute a slug.

Standard Industrial Classification (SIC) - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

Standard Methods - Procedures contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, procedures established by the Administrator, pursuant to Section 304 (G) of the Act and contained in 40 CFR, Part 136, and amendments thereto. (If 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.), any other procedure approved by the Administrator, or any other procedure approved by the DPW, whichever is the most conservative.

State - State of New York.

State's Waters - See Waters of the State.

Storm Water - Any flow occurring during or following any form of natural precipitation; also the flow resulting therefrom.

Substances of Concern - Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

Sump Pump - A mechanism used for removing water from a sump or wet well.

Suspended Solids - The result obtained, using an approved laboratory procedure, to determine the dry weight of solids, in a sample, that either float on the surface of, or are in suspension, or are settleable, and can be removed from the sample by filtration, expressed in milligrams per liter.

Total Kjeldahl Nitrogen (TKN) - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample and released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

Total Phosphorus - The result obtained, using an approved laboratory procedure, to determine the total quantity of orthophosphate, in a sample of wastewater, following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

Town of Duanesburg Sewer Use Law

Town - Town of Duanesburg, Schenectady County, New York

Toxic Substances - Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA 307 (A), or other Acts.

User - Any person who contributes, causes, or permits the contribution of wastewater into the POTW. The following categories of users are identified:

1. Initial users in the service area - parcel that had a street lateral installed during the original construction of the sewer collection system. Each vacant parcel within the service area shall also be provided with one street lateral.
2. New users that are within the service area that require a new connection at the public sewer, (i.e. subsequent subdivision of land that creates additional lot(s) after the original sewer collection system was placed in operation). In these cases, the new user will be responsible for all costs associated with the installation of the street lateral.
3. New users outside the original service area either in a subsequent extension or as outside users. In these cases, the new user is responsible for all costs associated with the extension of the sewage collection system.

User, Industrial - A discharger to the POTW who discharges non-domestic wastewaters.

User, Significant Industrial (SIU) - An industrial user of the Town POTW who is:

- (a) Subject to National Categorical Pretreatment Standards promulgated by the EPA,
- (b) Having substantial impact, either singly or in combination with other industries, on the operation of the treatment works,
- (c) Using, on an annual basis, more than 10,000 lbs. or 1,000 gallons of raw material containing priority pollutants and/or substances of concern and discharging a measurable quantity of these pollutants to the sewer system,
- (d) Discharging more than five percent (5%) of the flow or load of conventional pollutants received by the POTW treatment plant.

*Note: A user discharging a measurable quantity of a pollutant may be classified as non-significant if, at the influent to the POTW treatment plant, the pollutant is not detectable.

Wastewater - The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater Discharge Permit A permit as set forth in Article 9 of this Law.

Wastewater, Unusual Strength or Character -- see Sewage, Unusual Strength or Character.

Waters of the State (State's Waters) - All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

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Section 202 - Abbreviations

The following abbreviations shall have the designated meanings:

ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
AWWA	American Water Works Association
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CPLR	Code of Public Law and Rules
COD	Chemical Oxygen Demand
DR	Designated Representative
EPA	Environmental Protection Agency
L	Liter
Mg	Milligram
Mg/l	Milligrams per liter
NCPI	National Clay Pipe Institute
NPDES	National Pollutant Discharge Elimination System
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOT	New York State Department of Transportation
P	Total Phosphorus
PSI	Pounds per Square Inch
POTW	Publicly Owned Treatment Works
PPM	Parts per Million, weight basis
SIC	Standard Industrial Classification
SPDES	State Pollutant Discharge Elimination System
SWDA	Solid Waste Disposal Act, 42 U.S.C. 690 L, et seq.
U.S.C.	United State Code of Laws
USEPA	United States Environmental Protection Agency
TSS	Total Suspended Solids

Section 203 - Undefined Terms

Terms not defined in this article, or terms found to be ambiguous or improperly defined in this article, shall be defined by the Act, or Regulations, pursuant thereto.

END OF ARTICLE 2

Town of Duanesburg Sewer Use Law

Article 3

USE OF PUBLIC SEWERS REQUIRED

- Section 301 - Waste Disposal Unlawful
- Section 302 - Connecting Private Sewage System to Storm Sewer Unlawful
- Section 303 - Discharge of Sewage into Well Prohibited
- Section 304 - Wastewater Discharge Unlawful
- Section 305 - Building Permit Allowed Only When Approved Wastewater Disposal Available
- Section 306 - Private Wastewater Disposal Unlawful
- Section 307 - Connection to Public Sewer Required
- Section 308 - Limitation on Use of Public Sewers
- Section 309 - Wastewater from Outside the POTW Service Area Inter-municipal Agreements
- Section 310 - Moratorium
- Section 311 - Basis of Sewer Use Requirement

Section 301 - Waste Disposal Unlawful

It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property, within the service area, any human or animal excrement, garbage, or objectionable waste. Also, no person shall discharge domestic sewage onto the surface of the ground or discharge it in a way that permits it to come to the surface of the ground.

Section 302 - Connecting Private Sewage system to Storm Sewer Unlawful

No person shall connect a private sewage system so that sewage flows into a storm sewer or into a drain intended exclusively for storm water.

Section 303 - Discharge of Sewage into Well Prohibited

No person shall discharge sewage into a well.

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Section 304 - Wastewater Discharge Unlawful

It shall be unlawful to discharge to any natural outlet, within the service area, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Law, or other State or Federal regulations.

Section 305 - Building Permit Allowed Only When Approved Wastewater Disposal Available

No property owner, builder, or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Law, is available. All housing construction or building development which takes place after this Law is enacted shall provide for an approved system of sanitary sewers in compliance with these regulations.

Section 306 - Private Wastewater Disposal Unlawful

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privyvault, cesspool, septic tank, or other facility intended or used for disposal of wastewater within the Service Area.

Section 307 - Connection to Public Sewer Required

(a) The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the service area, and abutting on any street, alley, right-of-way, or easement in which there is now located or may, in the future, be located a public sewer, is hereby required, at the owner's expense to install suitable sanitary facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this law.

(b) At such time that a public sewer becomes available to a property, a direct connection shall be made to the public sewer, in compliance with this Law, and any cesspool, septic tank, and similar wastewater disposal facilities shall be cleaned of septage, by a licensed septage hauler, and finally either filled with clean sand, bank-run gravel, or dirt, or removed and properly disposed. When the connection is made to the public sewer, the connection to the private wastewater disposal facility shall be broken and both ends of the break shall be plugged, as appropriate and in accordance with any other local, state or federal regulations.

Town of Duaneburg Sewer Use Law

(c) If at the time the public sewer becomes available, a wastewater disposal facility exists that is a privately owned residential facility or is a facility owned by a not for profit organization, that was constructed after January 1, 1998 and of the mound type, and meets all of the then current rules, regulations and standards of the New York State Department of Environmental Conservation and the Schenectady County Department of Health, and upon written verification by a New York State licensed engineer that the system meets the required test and evaluation requirements specified by these authorities, and that the engineer certifies that the system is functioning properly and that effluent leaving the system meets standards promulgated by Regulatory Agencies, then the owner shall have the option of continuing to use such facility for a period of three years from the date of such verification, provided re-verification of suitability for use is established each year on the anniversary date of the original verification. This provision shall expire in any event on December 31, 2004. It should be noted that the owners are obligated to pay to the Sewer District all indebtedness costs associated with the construction of the sewer system during this three year period and thereafter.

Section 308 - Limitation on Use of Public Sewers

The use of the Town public sewers shall be strictly limited and restricted, except as provided in Section 307, to receive and accept the discharge of sewage and other wastes, including industrial wastes generated on or discharged from real property within the bounds of the Service Area of the POTW.

Section 309 - Wastewater from Outside the POTW Service Area - Inter-municipal Agreements

The Town Board shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.

If the person is a municipality, that municipality shall have enacted a Sewer Use Law as restrictive on the discharge of sewage and other wastes as the restrictions contained in this Law.

If the person is not a municipality the acceptance shall be made only with the expressed written consent of the Town Board (the issuance of a permit) setting forth the terms and conditions of such acceptance.

Section 310 - Moratorium

The Town Board, on its own volition, or at the recommendation of the DR and the Sewer Advisory Board, who determines that:

- (1) one or more segments of the POTW is exceeding its hydraulic capacity at any time
- (2) any specific purpose of this Law is being violated

The Town Board shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be by:

- (1) construction of new facilities
- (2) enlarging existing facilities
- (3) correction of inflow and infiltration
- (4) cleaning and repairing of existing facilities

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Section 311 - Basis of Sewer Use Requirement

All requirements, directives, and orders calling for mandatory use of the sewers, within the Service Area of the POTW, for the proper discharge of sewage and other wastes, including industrial wastes, shall be established and given by the Town Board, NYSDEC, USEPA, and/or other such State or Federal agencies, which have enforcement powers.

END OF ARTICLE 3

Town of Duanesburg
Sewer Use Law

Article 4

PRIVATE WASTEWATER DISPOSAL

- Section 401 - Private Wastewater Disposal Prohibited
- Section 402 - Preventing Nuisances - Rehabilitation Required
- Section 403 - Sanitary Operation Required
- Section 404 - Septage Removal
- Section 405 - Additional Requirements

Section 401 - Private Wastewater Disposal Prohibited

No new Private Wastewater Disposal System shall be constructed on any property within the service area of the Sewer District once a public sewer becomes available to that property.

Section 402 - Preventing Nuisances - Rehabilitation Required

When the liquid or liquid-borne effluent from a private wastewater disposal system enters any watercourse, ditch, storm sewer, or water supply system, located in the Sewer District, in such a manner, volume, and concentration so as to create a hazardous, offensive, or objectionable condition, in the opinion of the Schenectady County DOH, the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the Town Board, to do so, shall, within ninety (90) days, after receipt of such notice, repair, rebuild, or relocate such wastewater disposal system for the purpose of eliminating such hazardous, offensive, or objectionable conditions. The repair, rebuilding, or relocation of the system shall be accomplished in accordance with the rules and regulations of the Schenectady County DOH, at the owner's expense.

Section 403 - Sanitary Operation Required

The owner shall operate and maintain the private wastewater disposal system in a satisfactory manner at all times, at the owner's expense.

Section 404 - Septage Removal

Where a private wastewater disposal system utilizes a septic tank, septage shall be removed from the septic tank, by a licensed hauler of trucked and hauled wastes, at three year intervals or more frequently, as necessary, and legally disposed of.

Section 405 - Additional Requirements

No statement in this Article shall be construed to prevent, or interfere with, any additional requirements that may be deemed necessary by the Town Board, to protect public health and public welfare.

END OF ARTICLE 4

Town of Duanesburg Sewer Use Law

Article 5

NEW SEWERS or SEWER EXTENSIONS

- Section 501 - Proper Design
- Section 502A - New Sewers Subject to Approval, Fees, Inspection, Testing, and Reporting
- Section 502 B - Plans, Specification, and Pipe Test Results Required
- Section 503 A - Sewer Pipe
- Section 503 B - Safety and Load Factors
- Section 503 C - Sewer Pipe installation
- Section 503 D - Cleanout Installation
- Section 504 - Manholes and Manhole Installation
- Section 505 A - Infiltration/Exfiltration Testing
- Section 505 B - Test Section
- Section 505 C - Test Period
- Section 505 D - Pipe Lamping
- Section 505 E - Deflection Testing
- Section 505 F - Air Testing Alternative
- Section 505 G - Vacuum Testing Alternative
- Section 506 A - Force Mains
- Section 506 B - Force Main Testing
- Section 507 - Final Acceptance and Warranty/Surety
- Section 508 - Liability Insurance Coverage During Construction Period

Section 501 - Proper Design

New sanitary sewers and all extensions to sanitary sewers owned and operated by the Town shall be designed, by a professional licensed to practice sewer design in the State, in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers ("Ten State Standards"), and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to, and written approval shall be obtained from the Town Board, the New York State Health Department, and the NYSDEC, before initiating any construction. The design shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

If, however, there is inadequate capacity in any sewer which would convey the wastewater or if there is insufficient capacity in the POTW treatment plant to treat the wastewater properly, the application shall be denied. Sewer line and POTW treatment plant current use shall be defined as the present use and the unutilized use which has been committed, by resolution, to other users by the Town Board.

Section 502 A - New Sewers Subject to Approval, Fees, Inspection, Testing, and Reporting

When a property owner, builder, or developer proposes to construct sanitary sewers or extensions to sanitary sewers in an area proposed for subdivision, the plans, specifications, and method of installation shall be subject to the approval of the Town Board, and the Schenectady

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County Health Department, in accordance with Section 501. Said property owner, builder, or developer shall pay for the entire installation, including a proportionate share of the treatment plant, intercepting or trunk sewers, pumping stations, force mains, and all other Sewer District expenses incidental thereto. Each street lateral shall be installed and inspected pursuant to Article 6, and inspection fees shall be paid by the applicant prior to initiating construction. Design and installation of sewers shall be as specified in Section 503, and in conformance with Paragraphs 3 through 6 of ASTM Specification C-12. The installation of the sewer shall be subject to additional periodic inspection by the DR, without prior notice. The DR shall determine whether the work is proceeding in accordance with the approved plans and specifications, and whether the completed work will conform with the approved plans and specifications. The sewer, as constructed, must pass the infiltration test (or the exfiltration test, with prior approval), required in Section 505, before any building lateral is connected thereto. The DR shall be notified 30 days in advance of the start of any construction actions so that such inspection frequencies and procedures as may be necessary or required, may be established. No new sanitary sewers will be accepted by the DR until such construction inspections have been made so as to assure the DR of compliance with this Law and any amendments or additions thereto. The DR has the authority to require such excavation as necessary to inspect any installed facilities if the facilities were covered or otherwise backfilled before they were inspected so as to permit inspection of the construction. The DR shall report all findings of inspections and tests to the Town Board.

Section 502 B - Plans, Specification, and Pipe Test Results Required

Plans, specifications, and methods of installation shall conform to the requirements of this Article. Components and materials of wastewater facilities not covered in this Law, such as pumping stations, lift stations, or force mains shall be designed in accordance with Section 501, and shall be clearly shown and detailed on the plans and specifications submitted for approval. Force main details are covered in Section 506. When requested, the applicant shall submit, to the Town and to the New York State Health Department, all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished, upon request.

Section 503 A - Sewer Pipe

(1) Sewer pipe material shall be:

(a) **Reinforced Concrete Pipe:** (Note that non-reinforced concrete pipe shall not be used.) Portland cement shall conform to ASTM C-150 Type II. The pipe and specials shall conform to ASTM Specification C-76. The reinforcing wire cage shall conform to ASTM Specification A 15, A 82, or A 185, as appropriate. Entrained air shall be 5.0% to 9.0% by ASTM C-890 Water absorption and three-edge bearing tests shall conform to ASTM Specification C-497. Gaskets shall conform to Sections 3.3 and 3.4 of AWWA Specification C-302.

(b) **Cast Iron Pipe - Extra Heavy Pipe,** fittings, and specials shall conform to the requirements of ASTM Specification A-74 or ANSI A-21.11. Gaskets shall conform to ASTM Specification C-564.

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(c) **Polyvinyl Chloride (PVC) Pipe - Heavy Wall Pipe (SDR 26/35)** shall be made from Class 12454-B materials or better in accordance with ANSI/ASTM Specification D-1784. Pipe and accessories shall conform to the requirements of the following, with a minimum pipe stiffness of 46 PSI at a maximum deflection of five percent (5%).

ANSI/ASTM D3034	(4" - 15")
ASTM F679 Type I	(18" - 27")

(d) **Ductile Iron Pipe:** Pipe, fittings, and specials shall be manufactured in accordance with ASTM Specification A-746. Pipe shall have a minimum thickness of Class 50. Fittings shall conform to ANSI Specification A-21.11 and have a minimum pressure class rating of 150 PSI. All pipe and fittings shall be cement mortar lined in accordance with ANSI Specification A-21.4 at twice the specified thickness, and have an internal and external bituminous seal coating. Closure pieces shall be jointed by means of mechanical coupling of the cast sleeve type.

(e) **Vitrified Clay Pipe:** Extra strength (Note that standard strength vitrified clay pipe shall not be used.) Pipe shall conform to the current requirements of NCPI Specification ER 3300-67 and meet the requirements of ASTM Specification C 700.

(f) **Acrylonitrile-Butadiene-Styrene (ABS) Pipe:** Pipe and fittings shall conform to the requirements of ASTM Specification D 2661.

(g) **Other pipe materials:** Other pipe materials require prior written approval of the Town Board before being installed.

(2) The minimum internal pipe diameter shall be eight (8) inches for gravity sewers and three (3) inches for low pressure sewers.

(3) Joints for the selected pipe shall be designed and manufactured such that "O" ring gaskets of the "snap-on" type are used.

(4) Gaskets shall be continuous, solid, natural or synthetic rubber, and shall provide a positive compression seal in the assembled joint, such that the requirements of Section 505 are met.

(5) Joint preparation and assembly shall be in accordance with the manufacturer's recommendations.

(6) Wye branch fittings, as approved by the Town Board, shall be installed, for connection of street laterals, in accordance with Section 606.

Section 503 B - Safety and Load Factors

Selection of pipe class shall be predicated on the following criteria:

Safety Factor	1.5
Load Factor	1.7
Weight of Soil	120 lbs/cu. ft.
Wheel Loading	16,000 lbs.

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Utilizing the foregoing information, design shall be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, latest edition, "Design and Construction of Sanitary and Storm Sewers", and the pipe shall have sufficient structural strength to support all loads to be placed on the pipe, with a safety factor as specified above.

PVC pipe shall not be encased in concrete due to their different coefficients of linear thermal expansion.

Section 503 C - Sewer Pipe Installation

- (1) Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected. The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.
- (2) The construction right-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction, removal of underbrush, logs, and stumps, and other organic matter, removal of refuse, garbage, and trash, removal of ice and snow, and removal of telephone and power poles, and posts. Any tree which will not hinder construction shall not be removed, and shall be protected from damage by any construction equipment. Debris shall not be burned, but hauled for disposal in an approved manner.
- (3) The public shall be protected from personal and property damage as a result of the construction work.
- (4) Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least 1/2 of a street shall be kept open for traffic flow.
- (5) Erosion control shall be performed throughout the project to minimize the erosion of soils onto lands or into waters adjacent to or affected by the work. Erosion control can be effected by limiting the amount of clearing and grubbing prior to trenching, proper scheduling of the pipe installation work, minimizing time of open trench, prompt grading and seeding, and filtration of drainage.
- (6) The trench shall be excavated only wide enough for proper installation of the sewer pipe, manhole, and appurtenances. Allowances may be made for sheeting, de-watering, and other similar actions to complete the work. Roads, sidewalks, and curbs shall be cut, by sawing or by other methods as approved by the DR, before trench excavation is initiated.
- (7) Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways, and railroad tracks.
- (8) Open trenches shall be protected at all hours of the day with barricades, as required.

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- (9) Trenches shall not be open for more than 30 feet in advance of pipe installation nor left unfilled for more than 30 feet in the rear of the installed pipe, when the work is in progress, without permission of the DR. When work is not in progress, including over night, weekends, and holidays, the trench shall be backfilled to ground surface.
- (10) The trench shall be excavated approximately six (6) inches deeper than the final pipe grade. When unsuitable soils are encountered, these shall be excavated to a maximum depth of 2-1/2 feet below the final pipe invert grade and replaced with select materials.
- (11) Ledge rock, boulders, and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five (5) feet, at the transition from rock bottom to earth bottom, centered on the transition.
- (12) Maintenance of grade, elevation, and alignment shall be done by some suitable method or combination of methods.
- (13) No structure shall be undercut unless specifically approved by the DR.
- (14) Proper devices shall be provided, and maintained operational at all times, to remove all water from the trench as it enters. At no time shall the sewer line be used for removal of water from the trench.
- (15) To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheeting shall not be removed but cut off no lower than one foot above the pipe crown nor no higher than one foot below final grade, and left in the trench, during backfill operations.
- (16) The pipe barrel shall be supported, along its entire length, on a minimum of six (6) inches of crusher run max. 1/2 inch stone free of organic material. This foundation shall be firmly tamped in the excavation.
- (17) Bell holes shall be hand excavated, as appropriate.
- (18) Pipe shall be laid from low elevation to high elevation. The pipe bell shall be up-gradient; the pipe spigot shall be down-gradient.
- (19) Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.
- (20) The grade and alignment shall be checked and made correct. The pipe shall be in straight alignment. Any negotiation of curves shall be at manholes, except when site conditions require alternative pipe laying procedures. These alternative procedures, including bending the pipe barrel, deflecting the joint, and using special fittings, shall require prior written approval of the plans and also written confirmation approval of need by the DR after examination of the site conditions.

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(21) When a smaller sewer joins a larger one the invert of the larger sewer shall be lowered sufficiently to maintain the same hydraulic gradient. An approximate method which may be used for securing this result is to place the 0.8 depth of both sewers at the same elevation.

(22) Crushed stone shall be placed over the laid pipe to a depth of at least six (6) inches. The embedment of thermoplastic pipe shall be in accordance with ASTM D2321 using class 1A or 1B backfill materials. Care shall be exercised so that stone is packed under the pipe haunches. Care shall be exercised so that the pipe is not moved during placement of the crushed stone.

(23) The migration of fines from surrounding backfill or native soils shall be restricted by gradation of embedment materials or by use of suitable filter fabric.

(24) The remaining portion of the trench above the pipe embedment shall be backfilled in foot lifts which shall be firmly compacted. Compaction near/under roadways, driveways, sidewalks, and other structures shall be to 95 % of the maximum moisture-density relationship, as determined by ASTM Specification D 698, Method D. Ice, snow, or frozen material shall not be used for backfill.

Section 503 D - Cleanout Installation

(1) Cleanouts for low pressure sewers shall be placed at intervals of approximately 400 to 500 feet, at major changes of direction, where one collection main joins another main and at the upstream end of each main branch.

(2) The design of the cleanouts shall be as approved by the DR.

Section 504 - Manholes and Manhole Installation

(1) Design of all manholes shall be submitted to the DR and shall receive approval prior to placement.

(2) Manholes shall be placed where there is a change in slope or alignment, and at intervals not exceeding 400 linear feet except as authorized by the DR.

(3) Manhole bases shall be constructed or placed on a minimum of six (6) inches of crusher run max. 1/2 inch stone free of organic materials.

(4) Manhole bases shall be constructed of 4,000 psi (28 day) concrete 8 inches thick, or shall be precast bases properly bedded in the excavation. Field constructed bases shall be monolithic, properly reinforced, and extend at least 6 inches beyond the outside walls of lower manhole sections. Precast manhole bases shall extend at least 6 inches beyond the outside walls of lower manhole sections.

(5) Manholes shall be constructed using precast minimum 4 foot diameter concrete manhole barrel sections, and an eccentric top section, conforming to ASTM Specification C-478, with the following exceptions on wall thickness:

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Manhole Diameter Feet	Wall Thickness Inches
4	5
5	6
6	7
6-1/2	7-1/2
7	8
8	9

All sections shall be cast solid, without lifting holes.

Flat top slabs shall be a minimum of 8 inches thick and shall be capable of supporting a H-20 loading.

(6) All joints between sections shall be sealed with an "O" ring rubber gasket, meeting the same specifications as pipe joint gaskets, or butyl joint sealant completely filling the joint.

(7) All joints shall be sealed against infiltration. All metal parts shall be thickly coated with bitumastic or elastomeric compound to prevent corrosion.

(8) No steps or ladder rungs shall be installed in the inside or outside manhole walls at any time after initial casting.

(9) No holes shall be cut into the manhole sections closer than 6 inches from joint surfaces.

(10) Manholes which extend above grade shall not have an eccentric top section. The top plate shall be large enough to accommodate the cover lifting device and the cover.

(11) The elevation of the top section shall be such that the cover frame top elevation is 0.5 foot above the 100-year flood elevation (in a field), 0.5 foot above a lawn elevation, or at finished road or sidewalk grade.

(12) All manhole frames and covers shall be heavy duty cast iron. The cover shall be 25 inches, minimum, in diameter. The minimum combined weight of the heavy duty frame and cover shall be 325 +/- 5% lbs. The mating surfaces shall be machined, and painted with tar pitch varnish. The cover shall not rock in the frame. Infiltration between the cover and frame shall be prevented by proper design and painting. Covers shall have "Sanitary Sewer" cast into them. Covers shall have lifting holes suitable for any lifting/jacking device. The lifting holes shall be designed so that infiltration is prevented.

(13) A drop of at least 0.1 foot shall be provided between incoming and outgoing sewers on all junction manholes and on manholes with bends greater than 45 degrees.

(14) Inverts and shelves/benches shall be placed after testing the manholes and sewers.

(15) Benches shall be level and slope to the flow channel at about 1 inch per foot.

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(16) The minimum depth of the flow channel shall be the nominal diameter of the smaller pipe. The channel shall have a steel trowel finish. The flow channel shall have a smooth curvature from inlet to outlet.

(17) Manhole frames, installed at grade, shall be set in a full bed of mortar with no less than two nor more than four courses of brick underneath to allow for later elevation adjustment. In lieu of brick, grade rings may be used for elevation adjustment. Grade rings shall not exceed 6 inches in depth. The total number of grade rings shall not exceed 12 inches in height, however, in no event shall more than 3 grade rings be used.

(18) Manholes which extend above grade, shall have the frames cast into the manhole top plate. The top plate shall be securely anchored to the manhole barrel, by a minimum of six 1/2 inch corrosion resistant anchor bolts, to prevent overturning when the cover is removed. The anchor bolts shall be electrically isolated from the manhole frame and cover.

(19) Internal drop pipes and fittings shall be PVC plastic sewer pipe in compliance with ASTM D2241. Corrosion resistant anchors shall be used to attach the drop pipe to the inside surface of the manhole barrel.

Section 505 A - Infiltration/Exfiltration Testing

All sanitary sewers or extensions to sanitary sewers, including manholes, shall satisfy requirements of a final infiltration test before they will be approved and wastewater flow permitted by the DR. The infiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches. An exfiltration test may be substituted for the infiltration test; the same rate shall not be exceeded. The exfiltration test shall be performed by the applicant, under the supervision of the DR, who shall have the responsibility for making proper and accurate measurements required. The exfiltration test consists of filling the pipe with water to provide a head of at least 5 feet above the top of the pipe or 5 feet above groundwater, whichever is higher, at the highest point under test, and then measuring the loss of water, from the pipe section under test, by the amount of water which must be added to maintain the original level. However, under no circumstances shall the head at the downstream manhole exceed ten (10) feet or fill to within six (6) inches of the top of the downstream manhole. Should this condition prevail, the testing methods in Sections 504 F and/or 504 G shall be utilized. In this test, the test section must remain filled with water for at least 24 hours prior to taking any measurements. Exfiltration shall be measured by the drop of water level in a standpipe with a closed bottom end, or in one of the sewer manholes serving the test section. When a standpipe and plug arrangement is used in the upper manhole in the test section, there shall be some positive method for releasing entrapped air prior to taking any measurements.

Section 505 B - Test Section

The test section shall be as ordered or as approved, but in no event longer than 1,000 feet. In the case of sewers laid on steep grades, the test length may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the test section. For purposes of determining the leakage rate of the test section, manholes shall be considered as sections of 48-inch diameter pipe, 5 feet long. The maximum allowable leakage rate for such a section is 1.1 gallons per 24 hours. If leakage exceeds the allowable rate, then necessary repairs or replacements shall be made, and the section retested.

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Section 505 C - Test Period

The test period, during which the test measurements are taken, shall not be less than two (2) hours.

Section 505 D - Pipe Lamping

Prior to testing, the section shall be lamped. Any length of pipe out of straight alignment shall be realigned.

Section 505 E - Deflection Testing

Also prior to testing, all plastic pipe, in the test section, shall be tested for deflection. Deflection testing shall involve the pulling of a rigid ball or mandrel, whose diameter is 95 percent of the pipe inside diameter, through the pipe. Any length of pipe with a deflection greater than 5 percent shall be replaced. The test section shall be flushed just prior to deflection testing. The test shall not be performed with a mechanical pulling device.

Section 505 F - Low Pressure Air Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), low pressure air testing may be employed. Low pressure air tests shall conform to ASTM Specification C 828. All sections to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. Air shall be added until the internal pressure of the test section is raised to approximately 4.0 PSIG. The air pressure test shall be based on the time, measured in seconds, for the air pressure to drop from 3.5 PSIG to 2.5 PSIG.

Acceptance is based on limits tabulated in the "Specification Time Required for a 1.0 PSIG Pressure Drop" in the Uni-Bell PVC Pipe Association "Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe".

Before pressure is applied to the line all connections shall be firmly plugged. Before the test period starts, the air shall be given sufficient time to cool to ambient temperature in the test section.

If the test section is below groundwater, the test pressure shall be increased by an amount sufficient to compensate for groundwater hydrostatic pressure, however, the test pressure shall not exceed 10 PSI, or a lower pressure as required by the DR.

The pressure test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the DR prior to testing.

Section 505 G - Vacuum Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), vacuum testing may be employed for testing of sewer lines and manholes. Sewer lines and manholes shall be tested separately. All sewer lines to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. The vacuum test shall be based on the time, measured in seconds, for the vacuum to decrease from 10 inches of mercury to 9 inches of mercury for manholes, and from 7 inches of mercury to 6 inches of mercury for sewers.

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Acceptance of manholes is based on the following:

Manhole Depth	Manhole Diameter	Time to Drop 1" Hg (10" to 9")
10 feet or less	4 feet	120 seconds
10 feet to 15 feet	4 feet	150 seconds
15 feet to 25 feet	4 feet	180 seconds

For 5 ft diameter manholes, add 30 seconds to the times above.

For 6 ft diameter manholes, add 60 seconds to the times above.

If the test on the manhole fails (the time is less than that tabulated above), necessary repairs shall be made and the vacuum test repeated, until the manhole passes the test.

Acceptance of sewers (7" Hg to 6" Hg) is based on the time tabulated in the "Specification Time Required for a 0.5 PSIG Pressure Drop" in the Uni-Bell PVC Pipe Association "Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe".

The vacuum test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the DR prior to testing.

Section 506A - Force Mains

Force mains serving sewage lifting devices, such as grinder pumps and pump stations, shall be designed in accordance with Section 501.

Additional design requirements are:

- (1) Force main pipe material shall be:
 - (a) **Ductile Iron Pipe:** Pipe shall conform to ANSI A21.51. The minimum wall thickness shall be Class 52 (ANSI A21.50). The pipe shall be clearly marked with either "D" or "DUCTILE". Fittings shall conform to ANSI A21.10. Pipe and fittings shall be furnished with push-on joints conforming to ANSI A21.11. Pipe and fittings shall be cement mortar lined and have an internal and external bituminous seal coating.
 - (b) **Polyvinyl Chloride (PVC) Plastic Pipe:** Pipe shall conform to ASTM D2241. Materials used in the manufacture of PVC pipe shall meet ASTM C1784. The minimum wall thickness shall be SDR-21. Fittings shall conform to ASTM D2241. Joints and gaskets shall conform to ASTM D2241, D1869, and F477.
 - (c) **Other pipe materials:** Other pipe materials require prior written approval of the DR before being installed.
- (2) Trenching, bedding, and backfilling shall be in accordance with Section 503 C.
- (3) Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.

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- (4) Anchorages, concrete blocking, and/or mechanical restraint shall be provided when there is a change of direction of 7-1/2degrees or greater.
- (5) Drain valves shall be placed at low points.
- (6) Automatic air relief valves shall be placed at high points and at 400 ft intervals, on level force main runs.
- (7) Air relief and drain valves shall be suitably protected from freezing.
- (8) When the daily average design detention time, in the force main, exceeds 20 minutes, the manhole and sewer line receiving the force main discharge or the sewage shall be treated so that corrosion of the manhole and the exiting line are prevented. The corrosion is caused by sulfuric acid biochemically produced from hydrogen sulfide anaerobically produced in the force main.
- (9) The force main shall terminate, in the receiving manhole, at a PVC plastic sewer pipe "T". The vertical arms of the "T" shall be twice the diameter of the force main. The upper arm shall be at least 4 feet long; the lower arm shall terminate in a PVC plastic sewer pipe 90 degree elbow in a flow channel directed to the manhole exit pipe. The "T" and its arms shall be securely fastened to the inside surface of the manhole wall using corrosion resistant anchors.

Section 506B - Force Main Testing

All force mains shall be subjected to hydrostatic pressure of 150 percent of the normal operating pressure. The duration of the test, at pressure, shall be at least 2 hours. Before conducting the test, the pipe shall be filled with water and all air shall be expelled. During the test, water shall be added, as needed, to maintain the test pressure. The amount of water added shall be recorded so as to calculate leakage. Leakage shall not exceed 25 gallons per day per mile per inch nominal pipe diameter. During the test, the owner and the DR shall walk the route of the force main and examine the exposed pipe and the ground covering any backfilled pipe to discover leaks. Leakage in excess of that specified above shall be corrected with new material at the owner's expense and the test repeated. Any observed leaks shall be repaired at the owner's expense. Each test section length shall be as approved by the DR, but in no event longer than one thousand (1,000) feet.

Section 507 - Final Acceptance and Warranty/Surety

All sanitary sewers and extensions to sanitary sewers constructed at the applicant's expense, after final approval and acceptance by the DR, shall become the property of the Sewer District, and shall thereafter be operated and maintained by the Sewer District. No sanitary sewer shall be accepted by the DR until four (4) copies of as-built drawings have been so filed with the DR and the DR has approved the submitted drawings. Said sewers, after their acceptance by the DR, shall be guaranteed against defects in materials or workmanship for one (1) year, by the applicant. The guarantee shall be in such form and contain such provision as deemed necessary by the DR, secured by a surety bond or such other security as the DR may approve.

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(4) The minimum insurance limits above shall be as established by the Town Board and shall be subject to periodic review and adjustment, as appropriate, by the Town Board.

END OF ARTICLE 5

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Article 6

**BUILDING LATERALS, STREET LATERALS
and CONNECTIONS**

- Section 601 A - Permit Required for Sewer Connections
- Section 601 B - Inflow/Infiltration Prohibited
- Section 602 - Sewer Lateral Permits
- Section 603 A - New Building Laterals
- Section 603 B - Laterals Serving Several Buildings
- Section 603 C - Laterals Serving Complexes
- Section 603 D - Dry Sanitary Sewers
- Section 604 - Using Existing Building Laterals
- Section 605 - Lateral Pipe Materials
- Section 606 A - Street Lateral to Public Sewer Connection
- Section 606 B - Future Connection Locations; As-Built Drawings
- Section 606 C - Special Manhole Requirements
- Section 607 - Laterals At and Near Buildings
- Section 608 - Sewage Lifting
- Section 609 - Lateral Pipe Installation
- Section 610 A - Watertight Joints
- Section 610 B - Cast Iron Pipe Poured Joints
- Section 610 C - Cast Iron Push Joints
- Section 610 D - PVC Push Joints
- Section 611 A - Building Lateral/Street Lateral Connection
- Section 611 B - Street Lateral Replacement; Maintenance and Ownership
- Section 612 - Testing
- Section 613 A - Connection Inspection
- Section 613 B - Trench Inspections
- Section 613 C - Septic Tank Inspection
- Section 614 - Public Safety Provisions Required; Restoration of Disturbed Areas
- Section 615 - Interior Clean-Out
- Section 616 - Costs Borne by Owner

Section 601 A - Permit Required for Sewer Connections

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the DR.

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Section 601 B - Inflow/Infiltration Prohibited

No person shall discharge or cause to be discharged any storm cooling water or unpolluted industrial waters to any sanitary sewer. Swimming pool drains shall not be connected to any sanitary sewer.

Section 602 - Sewer Lateral Permits

There shall be two classes of building lateral permits:

- (1) For residential, commercial, and institutional service,
- (2) For service to establishments producing industrial wastes.

In either case, a permit application shall be submitted to the DR. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgment of the DR. A fee, for residential, commercial, institutional and industrial users, as established by the Town Board, shall accompany the application. (See Article 11 of this Sewer Use Law.)

Connections to existing manholes shall be made as directed by the DR.

Section 603 A - New Building Laterals

A separate and independent building lateral shall be provided for every building requiring sanitary facilities. When, however, there is a building behind a front building, and there is common ownership, the second building may, with special permission from the Town Board, use the front building's building lateral, if there is no other way to provide sanitary service to the back building.

New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the DR has approved plans showing the relocation. If relocation is not physically possible then the lateral shall be

- (1) exposed and totally encapsulated in not less than three inches of concrete, or
- (2) exposed and walled and the building rooms above positively ventilated outdoors.

All existing manholes in or under the basement shall be sealed air-tight in a manner acceptable to the DR. No new manholes shall be constructed on the portion of the lateral under the building.

Section 603 B - Laterals Serving Several Buildings

When building laterals are to serve multiple dwelling structures, the building lateral shall be sized in accordance with sound professional engineering judgment.

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Section 603 C - Laterals Serving Complexes

Where a lateral sewer is to serve a complex of industrial, commercial, institutional, or dwelling structures, special design of the building lateral system shall be required. Such lateral sewer shall be connected to the public sewer through a manhole. The Town Board shall determine if and where this connection to the public sewer is required. If required, a new manhole shall be installed in the public sewer pursuant to Section 503 D and 1007 and the lateral connection made and tested as directed by the Town Board. Plans and specifications shall be prepared and submitted for approval pursuant to this Law.

Section 603 D - Dry Sanitary Sewers

Dry Sanitary Sewers shall be designed and installed in accordance to this Law.

Section 604 - Using Existing Building Laterals

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the DR, to meet all requirements of this local Law.

Section 605 - Lateral Pipe Materials

Building and street lateral pipe materials shall be one of the following:

- (1) Tar-coated, service grade, cast iron soil pipe conforming to ASTM Specification A-74, "Cast Iron Pipe and Fittings". All dimensions, weight and markings of the pipe shall conform to the requirements of ANSI, Designation A112.5.1, except spigot ends shall be "plain end", if gasket joints are used.
- (2) Polyvinyl chloride (PVC) pipe and fittings conforming to ASTM Specification D-2241, "SDR-26 Polyvinyl Chloride (PVC) Sewer Pipe and Fittings". All pipe shall be suitable for gravity sewer service. Provisions shall be made for contraction and expansion at each joint with a rubber ring. The bell shall consist of an integral wall section stiffened with two PVC retainer rings which securely lock the solid cross-section ring into position. Minimum "Pipe Stiffness" (F/Y) at five percent (5%) deflection shall be 46 PSI when tested in accordance with ASTM Specification D-2412.

If installed on fill or unstable ground, the building or street lateral may need to be uniformly supported on a poured concrete cradle approved by the DR. The distance between consecutive joints, as measured along the centerline of the installed pipe, shall not be less than ten (10) feet, except under abnormal circumstances, in which case this dimension may be diminished, if approved by the DR. The size and slope of building and street laterals shall be subject to approval by the DR, but in no event shall the internal pipe diameter be less than 6 inches, nor shall the pipe slope be less than 1/8 inch per foot (1%).

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Section 606 A - Street Lateral to Public Sewer Connection

At the point of connection of a street lateral to a main sewer, a standard wye fitting and sufficient one-eighth (45 degree) bend fittings shall be used. The wye fittings shall be installed so that flow in the "arm" shall transition smoothly into the flow in the public sewer. No lateral connection shall be made to the public sewer which permits the flow into the public sewer from the lateral to enter at right angles.

The inside diameter of the fittings shall be same diameter as the street lateral inside diameter.

Section 606 B - Future Connection Locations; As-Built Drawings

The street lateral, including the wye and eighth bend fittings, shall be connected to the main sewer at the time of constructing the main sewer, for each proposed lot for either immediate or future development. Laterals installed for future development shall be fitted a standard plug approved for use by the DR. All sewer connections shall be via a properly installed saddle on the main sewer pipe. No portion of the lateral pipe shall protrude into the main sewer pipe. The location of all lateral connections shall be field marked with a 2 inch by 6 inch corrosion and rot resistant board. The marker board shall extend from the depth of the lateral to a minimum of two (2) feet above grade. The location of all lateral connections shall be indicated on a drawing with a minimum of three (3) tie lines indicated. Four (4) copies of this drawing, showing the as-built location of these connections, shall be furnished to the Town Board. A refundable deposit shall be placed with Town to assure receipt of these as-builts. The deposit shall be placed when application is made; the amount of the deposit shall be \$100 per sheet of plans showing locations of lateral connections. No sanitary sewer shall be accepted by Town until four (4) copies of this record drawing have been so filed with the DR and the Town Board has approved the submitted drawings.

Section 606 C - Special Manhole Requirements

When any street lateral is to serve a school, hospital, or similar institution, or public housing, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the DR, will receive wastewater or industrial wastes of such volume or character that frequent maintenance of said building or street lateral is anticipated, then such street lateral shall be connected to the public sewer through a manhole. The DR shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the DR. If required, a new manhole shall be installed in the public sewer pursuant to Sections 504 and 1007, and the lateral connection made thereto as directed by the DR.

Section 607 - Laterals At and Near Buildings

Building laterals laid parallel to a bearing wall shall not be installed closer than three (3) feet to such wall. The building lateral shall enter the basement through the basement wall no less than twelve (12) inches above the basement floor. In no event shall any building lateral be placed below the basement floor, except with the expressed written approval of the DR.

Town of Duanesburg Sewer Use Law

The building lateral shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Changes of direction of 90 degrees or greater shall be made with a clean-out which extends to grade, terminating in a terminal box set in concrete. In building laterals, said clean-outs shall be provided such that the maximum distance between clean-outs is 300 feet. The ends of all building or street laterals, which are not connected to the interior plumbing of the building, for any reason, shall be sealed against infiltration by a suitable stopper, plug, or by other approved means.

Section 608 - Sewage Lifting

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such drain shall be lifted by mechanical means and discharged to the building lateral, on approval of the DR.

Section 609 - Lateral Pipe Installation

All excavations required for the installation of a building or street lateral shall be open trench work unless otherwise approved by the DR. Pipe laying and backfilling, regardless of pipe material used, shall be performed in general accordance with paragraphs 3 through 6 of ASTM Specification C-12, except that trench width, measured at the top of the installed pipe, shall not exceed the outside pipe diameter plus 14 inches and, except that no backfill shall be placed until the work has been inspected. The depth of cover over the pipe shall be sufficient to afford protection from frost, but not in any case shall such depth be less than four (4) feet. Where it is physically impossible to provide cover of four (4) feet, the depth may be reduced to a minimum of two (2) feet and the pipe shall be insulated, as approved by the DR.

Section 610 A - Watertight Joints

All joints and connections shall be made watertight.

Section 610 B - Cast Iron Pipe Poured Joints

Poured joints for cast iron pipe shall be firmly packed with oakum or hemp, and the annulus filled with an approved compound not less than 1 inch deep. The said compound shall be run in with a single pouring, and caulked tight, if appropriate for the compound used. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast iron pipe and other pipe materials shall be made with special adapters and jointing materials approved by the DR. If such joints are hot-poured, the material shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees F, nor be soluble in any of the wastes carried by the lateral.

Section 610 C - Cast Iron Push Joints

Pre-molded gaskets may be used for hub and plain end cast iron pipe joints and joints with fittings, if approved by the DR. The gasket shall be a neoprene compression-type unit which provides a positive seal in the assembled joint. The gasket shall be pre-molded, one-piece unit, designed for joining the cast iron hub and plain end soil pipe and fittings. The assembled joint shall be sealed by

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compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendations using acceptable lubricant and special pipe-coupling tools designed for that purpose. The plain spigot end shall be forced into the hub end of the pipe for the full depth of the hub itself. Lubricant shall be a bland, flax-base, non-toxic material, and shall not chemically attack the gasket material.

Section 610 D - PVC Push Joints

Joints for PVC sewer pipe shall follow the manufacturer's recommendations, using properly designed couplings and rubber gaskets pursuant to the published information relating thereto, and conforming to the applicable ASTM specification identified in Section 605.

Section 611 A - Building Lateral/Street Lateral Connection

- (1) The connection of the building lateral to an existing street lateral shall be made at the property line. Except as provided under Section 502, if a street lateral has not previously been provided, the street lateral will be constructed from the existing public sewer to the property line, by permit only and at the owner's expense. The lateral shall be installed with a properly sealed and covered clean-out to grade located at distances not to exceed 300 feet or as per the DR.
- (2) For initial users in the original district, the cost of constructing one street lateral for each parcel shall be included in the sewer system construction cost. The cost of constructing the street lateral from the existing public sewer to the property line shall be at the property owner's expense. All subsequent costs and expense incidental to the installation and connection of the building lateral shall also be borne by the owner.
- (3) The property owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation and maintenance of the building lateral. Users that install plumbing fixtures in lower levels of structures shall install check valves to prevent back flow from the sewer system into the interior plumbing system. The Sewer District assumes no responsibility for damages or clean-up inside buildings resulting from a sewer system backup.
- (4) It shall be the responsibility of the property owner to maintain, repair, or replace the building lateral, as needed to provide proper flow and discharge.
- (5) The method of connection of the building lateral to the street lateral will be dependent upon the type of sewer pipe material, and, in all cases, shall be approved by the DR. After installation of the street lateral has been approved by the DR, the new street lateral shall become the property of the Sewer District. Any subsequent structural repairs to the new street laterals shall be made at the Sewer District's expense.
- (6) In the event that a new user requires the use of a grinder pump to discharge residential sewage to the district collection system, said grinder pump, electrical hookups, building and street lateral shall be installed at the new user's expense and in accordance with these regulations. Following the proper installation, the Sewer District will assume ownership and maintenance of the grinder pump and street lateral contingent on an easement being provided by the property owner to the Sewer District. The homeowner will be responsible for the maintenance of the building lateral which discharges to the grinder pump, and for the power costs to operate the pump.

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Section 611 B - Street Lateral Replacement; Maintenance and Ownership

Maintenance of street laterals to provide a clean, well flowing lateral is the responsibility of the user. Cleaning of the building and street lateral to remove obstructions such as roots and other blockages shall be the responsibility of the user.

Ownership of the street lateral lies with the Sewer District. In the event that an existing street lateral requires repair or replacement, the DR will assess the situation and make recommendations to the Town Board for corrective work. The replacement or repair of previously installed street laterals shall be at the Sewer District expense.

Section 612 - Testing

The street lateral, building lateral, or the combined lateral shall be tested for infiltration/exfiltration by

- (a) any full pipe method described in Section 505, or
- (b) by a suitable joint method, with the prior written approval of the Town Board.

Section 613 A - Connection Inspection

The applicant for the building lateral permit shall notify the DR 24 hours in advance of when the building lateral is ready for inspection and connection is to be made to the street lateral. The connection shall be made under the supervision of the DR.

The applicant for the street lateral permit shall notify the DR when the street lateral is ready for inspection and connection is to be made to the main sewer. The connection shall be made under the supervision of the DR.

Section 613 B - Trench Inspections

When trenches are excavated for the laying of building lateral pipes or for laying of street lateral pipes, such trenches shall be inspected by the DR. Before the trenches are backfilled, the person performing such work shall notify the DR when the laying of the building lateral is completed, and no backfilling of trenches shall begin until approval is obtained from the DR.

Section 613C - Septic Tank Inspection

When the trenches for installing the laterals are open, the DR will inspect the septic tank to assure that it is disconnected on both ends and filled with sand or other appropriate material, or that it is removed in it's entirety.

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Section 614 - Public Safety Provisions Required; Restoration of Disturbed Areas

All excavations for constructing building laterals by the user shall be adequately protected with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed, in the course of the work, shall be restored in a manner satisfactory to the DR, at the users expense. The user shall be responsible for obtaining any other permits required for the installation of a new street or building lateral. The cost for restoration of paved public roads and shoulders shall be borne by the user.

Section 615 - Interior Clean-Out

An interior clean-out fitting shall be provided for each building lateral at a readily accessible location, preferably just inside the basement wall. The fitting shall contain a 45-degree branch with removable plug or test tee, and so positioned that sewer cleaning equipment can be inserted therein to clean the building lateral.

The clean-out diameter shall be no less than the building lateral diameter.

Section 616 - Costs Borne by Owner

All costs associated with the provisions of this Article shall be borne by the property owner unless specifically stated or agreed to be a cost borne by the Sewer District. The property owner shall indemnify the Sewer District from any loss or damage that may be directly or indirectly occasioned by the installation of the building and street laterals, and connections and appurtenances.

END OF ARTICLE 6

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ARTICLE 7

INFLOW

- Section 701 - New Inflow Sources Prohibited
- Section 702 - Existing Inflow Sources Disconnected
- Section 703 - Existing Inflow Sources Disconnected When Property Sold
- Section 704 - No Re-connection of Inflow Source Allowed
- Section 705 - Charges for Inflow
- Section 706 - Trucked or Hauled Waste

Section 701 - New Inflow Sources Prohibited

No connections shall be made to a sanitary or to a combined sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.

Section 702 - Existing Inflow Sources Disconnected

For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the DR, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the Town Board, prior to the sale of the property.

Section 703 - Existing Inflow Sources Disconnected When Property Sold

Upon notice from the Tax Assessor, the DR shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and, if so, if all connections which contribute inflow have been disconnected.

Section 704 - No Re-connection of Inflow Source Allowed

It shall be a willful violation of this Law for any person to reconnect any inflow source which has been disconnected pursuant to this Article.

Section 705 - Charges for Inflow

The Town Board is enabled to take whatever action is necessary to determine the amount of inflow including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to Article 11, however, the Town Board may cause a surcharge at a rate not to exceed five (5) times that for normal sewage volume charge.

Section 706 - Trucked & Hauled Waste

The Discharge of trucked or hauled wastes into the sewer system and public sewers tributary thereto will not be permitted.

END OF ARTICLE 7

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ARTICLE 8

DISCHARGE RESTRICTIONS

Section 801 - Pretreatment Standards
Section 802 - General Prohibitions
Section 803 - Concentration Based Limitations
Section 804 - Mass Discharge Based Limitations
Section 805 - Modification of Limitations
Section 806 - Access to User's Records
Section 807 - Dilution
Section 808 - Grease, Oil, and Sand Interceptors
Section 809 - Solid Waste Grinders
Section 810 - Rejection of Wastewater

Section 801 - Pretreatment Standards

All users of the POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including but not limited to 40 CFR Parts 406 - 471.

Section 802 - General Prohibitions

No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards, or any other National, State, or Local Pretreatment Standards or Requirements.

Without limiting the generality of the foregoing, a user may not contribute the following substances to the POTW:

- (1) Any solids, liquids, or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause a fire or an explosion or be injurious, in any way, to the POTW, or to the operation of the POTW. At no time shall both of two successive readings on a flame type explosion hazard meter, at the point of discharge into the system (or at any other point in the system) be more than 25 % nor any single reading be more than 40 % of the lower explosive limit (LEL) of the meter. Unless explicitly allowable by a written permit, prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, and sulfides, and any other substance which the Town, the State, or the EPA has determined to be a fire hazard, or hazard to the POTW.

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(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or otherwise interfere with the operation of the wastewater treatment facilities. Unless explicitly allowable by a written permit, such substances include, but are not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass or stone grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0, unless the POTW was specifically designed to manage such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or POTW personnel.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard.

A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(A) of the Act.

(5) Any noxious or malodorous solids, liquids, or gases which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.

(6) Oils and grease - Any commercial, institutional, or industrial wastes containing fats, waxes, grease, or oils which become visible solids when the wastes are cooled to ten (10) degrees centigrade (50 degrees Fahrenheit); any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in excess of 100 mg/l or in amounts that will cause interference or pass through.

(7) Any wastewater which will cause interference or pass through.

(8) Any wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes, and vegetable tanning solutions.

(9) Any solid, liquid, vapor, or gas having a temperature higher than 65 degrees C (150 degrees F); however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 40 degrees C (104 degrees F). The Town Board reserves the right, in certain instances, to prohibit or limit the discharge of wastes whose maximum temperatures are lower than 65 degrees C.

(10) Unusual flow rate or concentration of wastes, constituting slugs, except by Industrial Wastewater Permit.

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(11) Any wastewater containing any radioactive wastes except as approved by the Town Board, and in compliance with applicable State and Federal regulations.

(12) Any wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way, with other wastes.

(13) Any wastewater with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Part 261.21.

(14) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

Section 803 - Concentration Based Limitations

No person shall discharge, directly or indirectly, into the POTW, wastewater containing any of the following substances in concentrations exceeding those specified below on either a daily or an instantaneous basis, except by permit or as provided for in Section 804. Concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW ("end of pipe" concentrations).

EFFLUENT CONCENTRATION LIMIT - mg/l

SUBSTANCE (1)	ALLOWABLE AVERAGE DAILY (2)	ALLOWABLE MAXIMUM INSTANTANEOUS (3)
Aluminum		
Antimony		
Arsenic		
Barium		
Beryllium		
Bismuth		
Bromine		
Cadmium	0.11	0.07
Chlorides		
Chlorine		
Chromium (hex)		
Chromium (tot)	2.77	1.71
Cobalt		
Copper	3.38	2.07
Cyanide (complex)		
Cyanide (free)		

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Effluent Concentration Limit - mg/1 (continued)

Cyanide (tot)	1.20	0.65
Fluorides		
Gold		
Iodine		
Iron		
Lead	0.69	0.43
Manganese		
Mercury		
Molybdenum		
Nickel	3.98	2.38
Phenols, total		
Selenium		
Silver	0.43	0.24
Sulfates		
Sulfides		
Tin		
Titanium		
Vanadium		
Zinc	2.61	1.48
Total Toxic Organics	2.13	-
Alternative to Cyanide: Cyanide Amenable to Chlorination	0.86	0.32

(1) Except for chromium (hex), all concentrations listed for metallic substances shall be as "total metal", which shall be defined as the value measured in a sample acidified to a pH value of 2 or less, without prior filtration.

(2) As determined on a composite sample taken from the User's daily discharge over a typical operational and/or production day.

(3) As determined on a grab sample taken from the User's discharge at any time during the daily operational and/or production period.

(4) Other substances which may be limited are:

alkanes, alkenes and alkynes
 aliphatic and aromatic alcohols and acids
 aliphatic and aromatic aldehydes and ketones
 aliphatic and aromatic esters
 aliphatic and aromatic halogenated compounds
 aliphatic and aromatic nitro, cyano and amino compounds
 antibiotics

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benzene derivatives
 chemical compounds which, upon acidification, alkalization, oxidation or reduction, in the discharge or after admixture with wastewater and its components in the POTW, produce toxic, flammable, or explosive compounds
 pesticides, including algicides, fungicides, herbicides, insecticides, rodenticides
 phthalates
 polyaromatic and polynuclear hydrocarbons
 total toxic organics, TTO, as defined in 40 CFR 433.11
 toxic organic compounds regulated by Federal Pretreatment Standards
 unsaturated aliphatics, including those with an aldehyde, ketone or nitrile functional group
 viable pathogenic organisms from industrial processes or hospital procedures

Section 804 - Mass Discharge Based Limitations

At no time shall the influent to the POTW contain quantities in excess of those specified below:

SUBSTANCE	ALLOWABLE POTW INFLUENT LOADING AVERAGE DAILY (POUNDS PER DAY)
Aluminum	
Antimony	
Arsenic	
Barium	
Beryllium	
Cadmium	
Chromium (hex)	
Chromium (total)	
Cobalt	
Copper	
Cyanide (complex)	
Cyanide (free)	
Gold	
Iron	
Lead	
Mercury	
Nickel	
Phenols (total)	
Selenium	
Silver	
Tin	
Zinc	

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To assure that none of the above noted limitations are violated, the Town Board shall issue permits to significant industrial users limiting the discharge of the substances noted above. Each permit shall restrict the discharge from each significant industrial user to a portion of the total allowable influent loading. In determining what portion of the total of each substance that each significant industrial user shall be allowed to discharge, the Town Board shall consider: (1) the quantities of each substance that are uncontrollable because they occur naturally in wastewater, (2) the quantities of each substance that are anthropogenic but are nonetheless uncontrollable, (3) historical discharge trends, (4) past pollution control efforts of each significant industrial user as compared to other significant industrial dischargers of the same substance, (5) potential for growth in the POTW service area, (6) potential for more restrictive regulatory requirements to be placed on the POTW discharge or sludge disposal or sludge reuse method, and (7) treatability of the substance. The Town Board shall apply a minimum 15 % safety factor to be protective of the POTW.

Permits issued in accordance with this section may allow for discharges in excess of limitations set forth under section 803.

Section 805 - Modification of Limitations

Limitations on wastewater strength or mass discharge contained in this Law may be supplemented with more stringent limitations when, in the opinion of the Town Board:

- (1) The limitations in this Law are not sufficient to protect the POTW,
- (2) The limitations in this Law are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's SPDES permit,
- (3) The POTW sludge will be rendered unacceptable for disposal or reuse as the Town desires, as a result of discharge of wastewaters at the above prescribed concentration limitations,
- (4) Municipal employees or the public will be endangered, or
- (5) Air pollution and/or groundwater pollution will be caused.

The limitations on wastewater strength or mass discharge shall be recalculated not less frequently than once every five (5) years. The results of these calculations shall be reported to the Town Board. This Law shall then be amended appropriately. Any issued industrial wastewater discharge permits, which have limitations, based directly on any limitations, which were changed, shall be revised and amended, as appropriate.

Section 806 - Access to User's Records

The Town Board shall have the authority to copy any record related to wastewater discharges to the POTW.

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Section 807 - Dilution

Except where expressly authorized to do so by an applicable Pretreatment Standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard.

Dilution flow shall be considered to be inflow.

Section 808 - Grease, Oil, and Sand Interceptors

Grease, oil, and sand interceptors shall be provided, when, in the opinion of the Town Board, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such interceptors shall not be required for private living quarters or living units. All interceptors shall be of type and capacity approved by the Town Board and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

Section 809 - Solid Waste Grinders

Solid waste grinders at or serving commercial establishments, institutions or industries shall not discharge into the Town POTW if there is a combined sewer overflow (CSO) on the sewer lines conveying the waste to the POTW treatment plant.

Section 810 - Rejection of Wastewater

The Town Board may reject a User's wastewater when it is has been determined that the wastewater contains substances or possesses characteristics which have a deleterious effect on the POTW and its processes, or on the receiving water, or which constitute a public nuisance or hazard. See Section 916.

END OF ARTICLE 8

Town of Duanesburg Sewer Use Law

ARTICLE 9

DISCHARGE PERMITS AND PRETREATMENT REQUIREMENTS

- Section 901 - Wastewater Discharge Reports
- Section 902 - Notification to Industrial Users
- Section 903 A - Wastewater Discharges
- Section 903 B - Wastewater Discharge Permits Required For Significant Industrial Users
- Section 903 C - Other Industrial Users
- Section 903 D - Discharge Permits to Storm Sewers Not Authorized
- Section 904 A - Application for Wastewater Discharge Permits
- Section 904 B - Permit Modifications
- Section 904 C - Permit Conditions
- Section 904 D - Permit Duration
- Section 904 E - Permit Reissuance
- Section 904 F - Permit Transfer
- Section 904 G - Permit Revocation
- Section 904 H - Public Notification
- Section 905 - Reporting Requirements for Permittee
- Section 906 - Flow Equalization
- Section 907 - Monitoring Stations (Control Manholes)
- Section 908 - Proper Design and Maintenance of Facilities and Monitoring Stations
- Section 909 - Vandalism, Tampering with Measuring Devices
- Section 910 - Sampling and Analysis
- Section 911 - Accidental Discharges; SPCC Plan
- Section 912 - Posting Notices
- Section 913 - Sample Splitting
- Section 914 - Access to Information
- Section 915 A - Access to Property and Records
- Section 915 B - Access to Easements
- Section 915 C - Liability of Property Owner
- Section 916 - Special Agreements

Section 901 - Wastewater Discharge Reports

As a means of determining compliance with this Law, with applicable SPDES permit conditions, and with applicable State and Federal law, each industrial user shall be required to notify the Town Board of any new or existing discharges to the POTW by submitting a completed Industrial Chemical Survey (ICS) form and a completed Industrial Wastewater Survey (IWS) form. The Town Board may require any user discharging wastewater into the POTW to file wastewater discharge reports and to supplement such reports as the Town Board deems necessary. All information shall be furnished by the user in complete cooperation with the Town Board.

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Section 902 - Notification to Industrial Users

The Town Board shall, from time to time, notify each industrial user of applicable Pretreatment Standards, and of other applicable requirements under Section 204(B) and Section 405 of the Clean Water Act, and Subtitles C and D of RCRA.

Section 903 A - Wastewater Discharges

No Significant Industrial User shall discharge wastewater to the POTW without having a valid Wastewater Discharge Permit, issued by the Town Board. Significant Industrial Users shall comply fully with the terms and conditions of their permits in addition to the provisions of this Law. Violation of a permit term or condition is deemed a violation of this Law.

Section 903 B - Wastewater Discharge Permits Required For Significant Industrial Users

All Significant Industrial Users proposing to connect to or to discharge to the POTW shall obtain a Wastewater Discharge Permit before connecting to or discharging to the POTW. Existing significant industrial users shall make application for a Wastewater Discharge Permit within 30 days after the effective date of this Law, and shall obtain such a permit within 90 days after making application.

Section 903 C - Other Industrial Users

The Town Board may issue Wastewater Discharge Permits to other industrial users of the POTW.

Section 903 D - Discharge Permits to Storm Sewers Not Authorized

The Town does not have the authority to issue permits for the discharge of any wastewater to a storm sewer. This authority rests with the NYSDEC.

Section 904 A - Application for Wastewater Discharge Permits

Industrial users required to obtain a Wastewater Discharge Permit shall complete and file with the Town Board an application in the form prescribed by the Town. The application shall be accompanied by a fee, as set forth in Section 1102. In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC code of both the industry and any categorical processes.
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in Article 8 of this Law and which are limited in the appropriate Categorical

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Standard, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be performed in accordance with Standard Methods.

- (4) Time and duration of the discharge.
- (5) Average daily peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances.
- (7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged to the POTW.
- (8) Each product produced by type, amount, process or processes, and rate of production.
- (9) Type and amount of raw materials processed (average and maximum per day).
- (10) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system.
- (11) The nature and concentration of any pollutants in the discharge which are limited by any County, State, or Federal Standards, and a statement whether or not the standards are being met on a consistent basis and if not whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable Standards.
- (12) If additional pretreatment and/or O&M will be required to meet the Standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
 - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and beginning routine operation).
 - (b) No increment referred to in (a) above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
 - (c) No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Town Board including, as a minimum, whether or not it complied with the increment of

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progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return to the established schedule. In no event shall more than 9 months elapse between such progress reports to the Town Board.

(13) Any other information as may be deemed by the Town Board to be necessary to evaluate the permit application.

The DR will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

Section 904 B - Permit Modifications

Wastewater Discharge Permits may be modified by the Town Board, upon 30 days notice to the permittee, for just cause. Just cause shall include, but not be limited to:

- (1) Promulgation of an applicable National Categorical Pretreatment Standard,
- (2) Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13,
- (3) Changes in general discharge prohibitions and local limits as per Section 803 of this law,
- (4) Changes in processes used by the permittee, or changes in discharge volume or character,
- (5) Changes in design or capability of any part of the POTW,
- (6) Discovery that the permitted discharge causes or contributes to pass through or interference, and
- (7) Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance as set forth in Section 904 A (12)(a).

Section 904 C - Permit Conditions

Wastewater Discharge Permits shall be expressly subject to all the provisions of this Law, and all other applicable regulations, user charges and fees established by the Town. Permits may contain the following:

- (1) Limits on the average and maximum rate and time of discharge, or requirements for flow regulation and equalization.

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- (2) Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
- (3) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- (4) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (6) Compliance schedules
- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Town, and affording the Town Board access thereto.
- (9) Requirements for notification of the Town of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- (10) Requirements for the notification of the Town of any change in the manufacturing and/or pretreatment process used by the permittee.
- (11) Requirements for notification of excessive, accidental, or slug discharges.
- (12) Other conditions as deemed appropriate by the Town to ensure compliance with this Law, and State and Federal laws, rules, and regulations.

Section 904 D - Permit Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years.

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Section 904 E - Permit Reissuance

The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Town Board, during the term of the permit, as limitations or requirements, as identified in Section 904 B, or other just cause exists. The User shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance as established in Section 904 A (12)(a).

Section 904 F - Permit Transfer

Wastewater Discharge Permits are issued to a specific User for a specific operation, or discharge at a specific location. A Wastewater Discharge Permit shall not be reassigned, transferred, or sold to a new owner, new User, different premises, or a new or changed operation.

Section 904 G - Permit Revocation

Wastewater Discharge Permits may be revoked for the following reasons: falsifying self-monitoring reports, tampering with monitoring equipment, refusing to allow the Town Board timely access to the industrial premises, failure to meet effluent limitations, failure to pay fines, failure to pay user charges, and failure to meet compliance schedules.

Section 904 H - Public Notification

The Town will publish in the Town official daily newspaper(s), informal notice of intent to issue a Wastewater Discharge Permit, at least 14 days prior to issuance.

Section 905 - Reporting Requirements for Permittee

The reports or documents required to be submitted or maintained under this section shall be subject to:

- (a) The provisions of 18 USC Section 1001 relating to fraud and false statements;
- (b) The provisions of Sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and
- (c) The provisions of Section (c)(6) of the Act, as amended, regarding corporate officers.
 - (1) Baseline Monitoring Report

Within 180 days after promulgation of an applicable Federal Categorical Pretreatment Standard, a User subject to that standard shall submit, to the Town Board, the information required by paragraphs (8) and (9) of Section 904 A.

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(2) 90-Day Compliance Report

Within 90 days following the date for final compliance with applicable Pretreatment Standards, or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit, to the Town Board, a report indicating the nature and concentration of all pollutants in the discharge, from the regulated process, which are limited by Pretreatment Standards and Requirements, and the average and maximum daily flow for these process units in the User's facility which are limited by such Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards and Requirements are being met on a consistent basis, and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

(3) Periodic Compliance Reports

(a) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Town Board, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Town Board, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in Section 904 A. At the discretion of the Town Board, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Town Board may agree to alter the months during which the above reports are to be submitted, however, no fewer than two reports shall be submitted per year.

(b) The Town Board may impose mass limitations on Users, which are using dilution to meet applicable Pretreatment Standards or Requirements, or, in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Section 905 (3) (a) shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of discharge sampling and analysis, including the flow, and the nature and concentration, or production and mass, where requested by the Town Board, of pollutants contained therein, which are limited by the applicable Pretreatment Standard. All analyses shall be performed in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses.

(4) Violation Report

If sampling, performed by the user, indicates a violation of this Law and/or the User's discharge permit, the User shall notify the Town Board within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town Board within 30 days after becoming aware of the violation. The User is not required to re-sample if the POTW performs monitoring of the User's discharge at

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least once a month for the parameter which was violated, or if the POTW performs sampling, for the parameter which was violated, between the User's initial sampling and when the User receives the results of this sampling.

(5) Other reports

The Town Board may impose reporting requirements equivalent to the requirements imposed by Section 905(3) for users not subject to pretreatment standards.

Section 906 - Flow Equalization

No person shall cause the discharge of slugs to the POTW. Each person discharging, into the POTW, greater than five percent (5%) of the average daily flow in the POTW, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Town Board. A wastewater discharge permit may be issued solely for flow equalization.

Section 907 - Monitoring Stations (Control Manholes)

(a) All Significant Industrial Users, and other Industrial Users whose industrial waste discharge has caused or may cause Interference or Pass-Through shall install and maintain a suitable monitoring station, on their premises at their expense, to facilitate the observation, sampling, and measurement of their industrial wastewater discharge.

(b) If there is more than one street lateral serving an Industrial User, the Town Board may require the installation of a control manhole on each lateral.

(c) The Town Board may require that such monitoring station(s) include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater. Such station(s) shall be accessibly and safely located, and the Industrial User shall allow immediate access, without prior notice, to the station by the Town Board, or his designated representative.

Section 908 - Proper Design and Maintenance of Facilities and Monitoring Stations

Preliminary treatment, and flow equalization facilities, or monitoring stations, if provided for any wastewater, shall be constructed and maintained continuously clean, safe, and continuously operational by the owner at his expense. Where an Industrial User has such treatment, equalization, or monitoring facilities at the time this Law is enacted, the Town Board may approve or disapprove the adequacy of such facilities. Where the Town Board disapproves of such facilities and construction of new or upgraded facilities for treatment, equalization, or monitoring are required, plans and specifications for such facilities shall be prepared by a licensed professional engineer and submitted to the Town Board. Construction of new or upgraded facilities shall not commence until written approval of the Town Board has been obtained.

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Section 909 - Vandalism, Tampering with Measuring Devices

No unauthorized person shall negligently break, damage, destroy, uncover, deface, tamper with, prevent access, or render inaccurate, or cause or permit the negligent breaking, damaging, destroying, uncovering, defacing, tampering with, preventing access, or rendering inaccurate to:

- i - any structure, appurtenance, or equipment which is a part of the Town POTW, or
- ii - any measuring, sampling, and/or testing device or mechanism installed pursuant to any requirement under this Law except as approved by the Town Board.

Section 910 - Sampling and Analysis

Sampling shall be performed so that a representative portion of the wastewater is obtained for analysis.

All measurements, tests, and analyses of the characteristics of waters and wastes required in any section of this Law shall be carried out in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations described in Section 907, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise, or unless specifically not allowed in Federal regulation, samples shall be gathered as flow proportioned (where feasible) composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).

Section 911 - Accidental Discharges; SPCC Plan

Each user shall provide for protection from accidental or slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Law or of an Industrial Wastewater Discharge Permit. Users shall immediately notify the Town Board of the discharge of wastes in violation of this Law or any Permit. Such discharges may result from:

- (1) Breakdown of pretreatment equipment
- (2) Accidents caused by mechanical failure, or negligence
- (3) Other causes.

Where possible, such immediate notification shall allow the Town Board to initiate appropriate countermeasure action at the POTW. The user shall prepare a detailed written statement following any accidental or slug discharge, which describes the causes of the discharge and the measures being taken to prevent future occurrences, within five (5) days of the occurrence, and the Town Board shall receive a copy of such report no later than the fifth

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calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.

When required by the Town Board, detailed plans and procedures to prevent accidental or slug discharges shall be submitted to the Town Board, for approval. These plans and procedures shall be called a Spill Prevention, Control, and Countermeasure (SPCC) Plan. The plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any provision of the permit and any National Prohibitive Discharge Standard;
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Section 912 - Posting Notices

In order that the Industrial User's employees be informed of the Town requirements, a notice shall be permanently posted on appropriate bulletin boards within the user's facility advising employees of the Town requirements and whom to call in case of an accidental discharge in violation of this Law.

Section 913 - Sample Splitting

When so requested in advance by an industrial user, and when taking a sample of industrial wastewater, the Town representative(s) shall gather sufficient volume of sample so that the sample can be split into two nearly equal volumes, each of size adequate for the anticipated analytical protocols including any Quality Control (QC) procedures. One of the portions shall be given to the representative of the industrial user whose wastewater was sampled, and the other portion shall be retained by the Town for its own analysis.

Section 914 - Access to Information

When requested, the Town Board shall make available, to the public, for inspection and/or copying, information and data on industrial users obtained from reports, questionnaires, permit applications, permit and monitoring programs, and inspections, unless the Industrial User specifically requests, and is able to demonstrate to the satisfaction of the Town Board, that such information, if made public, would divulge processes or methods of production entitled to protection as trade secrets of the user. Wastewater constituents and characteristics, and reports of accidental discharges shall not be recognized as confidential.

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Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed, upon written request, to governmental agencies, for uses related to this Law, or the SPDES Permit, providing that the governmental agency making the request agrees to hold the information confidential, in accordance with State or Federal Laws, Rules and Regulations. The Town Board shall provide written notice to the industrial user of any disclosure of confidential information to another governmental agency.

Section 915 A - Access to Property and Records

The Town Board and other authorized representatives of the Town, representatives of EPA, NYSDEC, NYSDOH, bearing proper credentials and identification, shall be permitted to enter upon all non-residential properties at all times for the purpose of inspection, observation, sampling, flow measurement, and testing to ascertain a user's compliance with applicable provisions of Federal and State law governing use of the Town POTW, and with the provisions of this Law. Inspections of residential properties shall be performed in proper observance of the resident's civil rights. Such representative(s) shall have the right to set up, on the User's property or property rented/leased by the User, such devices as are necessary to conduct sampling or flow measurement. Guard dogs shall be under proper control of the User while the representatives are on the User's property or property rented/leased by the User. Such representative(s) shall, additionally have access to and may copy any records the User is required to maintain under this Law. Where a User has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, inspecting personnel will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

Section 915 B - Access to Easements

The DR, bearing proper credentials and identification, shall be permitted to enter all private premises through which the Town holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Town public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

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Section 915 C - Liability of Property Owner

During the performance, on private premises, of inspections, sampling, or other similar operations referred to in Sections 914 A and 914 B, the inspectors shall observe all applicable safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be held harmless for personal injury or death of the inspector and the loss of or damage to the inspector's supplies and/or equipment; and the inspector shall indemnify the owner and/or occupant against loss or damage to property of the owner or occupant by the inspector and against liability claims asserted against the owner or occupant for personal injury or death of the inspector or for loss of or damage to the inspector's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

Section 916 - Special Agreements

Nothing in this Article shall be construed as preventing any special agreement or arrangement between the Town and any User of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the Town Board shall consider whether the wastewater will:

- (1) pass-through or cause interference
- (2) endanger the public municipal employees
- (3) cause violation of the SPDES Permit
- (4) interfere with any Purpose stated in Section 102
- (5) prevent the equitable compensation to the Town for wastewater conveyance and treatment, and sludge management and disposal

No discharge which violates the Federal Pretreatment Standards will be allowed under the terms of such special agreements.

No agreement shall be entered into without the user having been issued and presently having a permit to discharge wastes into the POTW for treatment and disposal. Additionally the user shall be in compliance with all conditions in the permit and shall not be in arrears in any charges due to the Town before the agreement is entered into. The Town Board may condition the agreement.

END OF ARTICLE 9

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ARTICLE 10

ENFORCEMENT AND PENALTIES

Section 1001 - Enforcement Response Plan

ADMINISTRATIVE REMEDIES

Section 1002 - Notification of Violation

Section 1003 - Consent Orders

Section 1004 - Administrative or Compliance Orders

Section 1005 - Administrative Fines

Section 1006 - Cease and Desist Orders

Section 1007 - Termination of Permit

Section 1008 - Water Supply Severance (Public Water Supply)

Section 1009 - Show Cause Hearing

Section 1010 - Failure of User to Petition the Town Board

Section 1011 - Notice

Section 1012 - Right to Choose Multiple Remedies

JUDICIAL REMEDIES

Section 1013 - Civil Actions for Penalties

Section 1014 - Court Orders

Section 1015 - Criminal Penalties

Section 1016 - Additional Injunctive Relief

Section 1017 - Summary Abatement

MISCELLANEOUS

Section 1018 - Delinquent Payments

Section 1019 - Performance Bonds

Section 1020 - Liability Insurance

Section 1021 - Informant Rewards

Section 1022 - Penalty for Late Connection

ENFORCEMENT AND PENALTIES

Section 1001 - Enforcement Response Plan

The Town Board shall prepare an Enforcement Response Plan. The Enforcement Response Plan, in a step-by-step fashion, shall outline the procedures to be followed to identify, document, and respond to violations by Users of the POTW. All violations by Users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.

The Enforcement Response Plan shall:

- (1) describe how the Town Board will investigate instances of non-compliance
- (2) describe the types of escalated enforcement actions that the Town Board will take in response to all anticipated types of User violations and the time periods within which to initiate and follow-up these actions

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(3) adequately reflect the Town Board's responsibility to enforce all applicable standards and requirements.

The Enforcement Response Plan shall contain:

- (1) criteria for scheduling periodic inspection and/or sampling visits to POTW Users
- (2) forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence
- (3) systems to track due dates, compliance schedule milestones, and pending enforcement actions
- (4) criteria, responsible personnel, and procedures to select and initiate an enforcement action.

The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors, such as:

- magnitude of the violation
- duration of the violation
- effect of the violation on the receiving water
- effect of the violation on the POTW
- effect of the violation on the health and safety of the POTW employees
- compliance history of the User
- good faith of the User

and shall promote consistent and timely use of enforcement remedies.

The Town Board shall approve the Enforcement Response Plan. The Enforcement Response Plan shall be reviewed at least every five years.

ADMINISTRATIVE REMEDIES

Section 1002 - Notification of Violation

Whenever the Town Board finds that any User has violated or is violating this Law, or any Wastewater Discharge Permit, order, prohibition, limitation, or requirement permitted by this Law, the Town Board may serve upon such person a written notice stating the nature of the violation. Within ten (10) calendar days of the date the Town Board mails the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Town Board, by the User. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the User of liability for any violations caused by the User before or after receipt of the Notice of Violation.

Section 1003 - Consent Orders

The Town Board is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the User responsible for the noncompliance. Such orders shall include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as an administrative order.

Town of Duanesburg Sewer Use Law

Section 1004 - Administrative or Compliance Orders

When the Town Board finds that a User has violated or continues to violate this Law or a permit or administrative order issued thereunder, he may issue an administrative order to the User responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued, severed and abated unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

The User may, within fifteen (15) calendar days of receipt of such order, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by certified mail. The Town Board shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with Section 1009 and may as part of the show cause notice request the User to supply additional information.

Section 1005 - Administrative Fines

Notwithstanding any other section of this Law, any User who is found to have violated any provision of this Law, or a wastewater discharge permit or administrative order issued hereunder, shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.

The User may, within fifteen (15) calendar days of notification of the Town Board's notice of such fine, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by certified mail. The Town Board shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the fine, or
- (3) Order the petitioner to show cause in accordance with Section 1009 and may as part of the show cause notice request the User to supply additional information.

Section 1006 - Cease and Desist Orders

When the Town Board finds that a User has violated or continues to violate this Law or any permit or administrative order issued hereunder, the Town Board may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

Town of Duanesburg Sewer Use Law

The User may, within fifteen (15) calendar days of the date the Town Board mails notification of such order, petition the Town Board to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Town Board by certified mail. The Town Board shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order,
- (3) Order the petitioner to show cause in accordance with Section 1009 and may as part of the show cause notice request the User to supply additional information.

Section 1007 - Termination of Permit

Any User who violates the following conditions of this Law or a wastewater discharge permit or administrative order, or any applicable or State and Federal law, is subject to permit termination:

- (1) Violation of permit conditions or conditions of an administrative order,
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge,
- (3) Failure to report significant changes in operations or wastewater constituents and characteristics,
- (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling, or
- (5) Failure to pay administrative fines, fees or user charges

Non-compliant industrial Users will be notified, by certified mail, of the proposed termination of their wastewater permit.

The User may, within fifteen (15) calendar days of the date the Town Board mails such notification, petition the Town Board to permit continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Town Board by certified mail. The Town Board shall then:

- (1) Reject any frivolous petitions,
- (2) Order the petitioner to show cause in accordance with Section 1009 and may as part of the show cause notice request the User to supply additional information.

Section 1008 - Water Supply Severance (Public Water Supply)

Whenever a User has violated or continues to violate the provisions of this Law or an order or permit issued hereunder, water service from the public water system to the User may be severed and service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

The User may, within fifteen (15) calendar days of severance, petition the Town Board to reconnect water supply service. Such petition shall be in written form and shall be transmitted to the Town Board by certified mail. The Town Board shall then:

Town of Duaneburg Sewer Use Law

- (1) Reject any frivolous petitions,
- (2) Reconnect the water supply, or
- (3) Order the petitioner to show cause in accordance with Section 1009 and may as part of the show cause notice request the User to supply additional information.

Section 1009 - Show Cause Hearing

The Town Board may order any User appealing administrative remedies for violations of this Law to show cause, before the Town Board, why an enforcement action, initiated by the Town Board, should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Town Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Town Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) calendar days before the hearing in accordance with Section 1011 of this Article. Service shall be made on any principal or executive officer of a User's establishment or to any partner in a User's establishment. The notice of the hearing shall be served at least ten (10) calendar days before the hearing, in accordance with Section 1011.

The Town Board may itself conduct the hearing, or may designate any of its members or any officer or employee of the Town to conduct the hearing:

- (1) Issue, in the name of the Town Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to any matter involved in such hearings,
- (2) Take the evidence,
- (3) Take sworn testimony,
- (4) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Board for action thereon.

After the Town Board has reviewed the evidence and testimony, it may order the user to comply with the order or fine, modify the order or fine, or vacate the order or fine.

Section 1010 - Failure of User to Petition the Town Board

In the event the Town Board issues any administrative order, terminates the User's permit, or makes any fine as set forth in this article, and the User fails, within the designated period of time set forth, to petition the Town Board, as provided in appropriate sections of this article, the User shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.

Section 1011 - Notice

The notices, orders, petitions, or other notification which the User or Town Board shall desire or be required to give pursuant to any sections of this Law shall be in writing and shall be served personally or sent by certified mail return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the User pursuant to the sections of this Law shall be mailed to the User where the User's effluent is discharged into transmission lines to the Town's

Town of Duanesburg Sewer Use Law

POTW. Any notice, petition, or other communication mailed to the Town Board shall be addressed and mailed to the Town Hall of the Town.

Section 1012 - Right to Choose Multiple Remedies

The Town Board shall have the right, within the Town Board's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article. The Town Board may utilize more than one administrative remedy established pursuant to this Article, and the Town Board may hold one show cause hearing combining more than one enforcement action.

JUDICIAL REMEDIES

Section 1013 - Civil Actions For Penalties

Any person who violates any of the provisions of or who fails to perform any duty imposed by this Law, or any administrative order or determination of the Town Board promulgated under this Law, or the terms of any permit issued hereunder, shall be liable to the Town for a civil penalty not to exceed one thousand dollars (\$1000) for each such violation, to be assessed after a hearing (unless the User waives the right to a hearing) held in conformance with the procedures set forth in this Article. Each violation shall be separate and distinct violation, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Town attorney, or his designated attorney, at the request of the Town Board in the name of the Town, in any court of competent jurisdiction giving preference to courts local to the Town. In addition to the above described penalty, the Town Board may recover all damages incurred by the Town from any persons or Users who violate any provisions of this Law, or who fail to perform any duties imposed by this Law or any administrative order or determination of the Town Board promulgated under this Law, or the terms of any permit issued hereunder. In addition to the above described damages, the Town Board may recover all reasonable attorney's fees incurred by the Town in enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties, and the Town Board may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other relative factors as justice may require.

Such civil penalty may be released or compromised by the Town Board before the matter has been referred to the Town attorney, and where such matter has been referred to the Town attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Town attorney, with the consent of the Town Board.

Section 1014 - Court Orders

In addition to the power to assess penalties as set forth in this Article, the Town Board shall have the power, following the hearing held in conformance with the procedures set forth in this Article, to seek an order:

- (1) Suspending, revoking, or modifying the violator's Wastewater Discharge Permit, or
- (2) Enjoining the violator from continuing the violation.

Town of Duanesburg Sewer Use Law

Any such court order shall be sought in an action brought by the Town attorney, at the request of the Town Board, in the name of the Town, in any court of competent jurisdiction giving precedence to courts local to the Village.

The Town attorney, at the request of the Town Board shall petition the Court to impose, assess, and recover such sums imposed according to this Article. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Section 1015 - Criminal Penalties

Any person who willfully violates any provision of this Law or any final determination or administrative order of the Town Board made in accordance with this Article shall be guilty of a Class A Misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000), or imprisonment not to exceed one (1) year or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Law, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

No prosecution, under this Section, shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

Section 1016 - Additional Injunctive Relief

Whenever a User has violated or continues to violate the provisions of this Law or permit or order issued hereunder, the Town Board, through counsel may petition the Court, in the name of the Town, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with any order or determination thereunder by the Town Board.

Section 1017 - Summary Abatement

Notwithstanding any inconsistent provisions of this Law, whenever the Town Board finds, after investigation, that any User is causing, engaging in, or maintaining a condition or activity which, in the judgment of the Town Board, presents an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Town Board may, without prior hearing, order such User by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity; or where the giving of notice is impracticable, or in the event of a User's failure to comply voluntarily with an emergency order, the Town Board may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) calendar days, the Town Board shall provide the User an opportunity to be heard, in accordance with the provisions of this Article.

Town of Duanesburg Sewer Use Law

If the User is not within the geographic boundaries of the Town the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in the inter-municipal agreement.

The Town Board, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment.

MISCELLANEOUS

Section 1018 - Delinquent Payments

If there shall be any payments which are due to the Town, or any Department thereof, pursuant to any Article or Section of this Law, which shall remain due and unpaid, in whole or in part, for a period of thirty (30) calendar days from the date of billing by the Town, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to twenty percent (20%) of the original bill.

In the event that there are any sewer taxes, assessments, or other service charges which shall have been delinquent for a period of at least sixty (60) calendar days as of December 15 of any year, the Town Clerk shall report the names of the defaulting persons to the Town Board on or before March 15 of the same year. The Town Clerk is hereby directed to add the entire amount of the sewer tax, assessment, or other service charge which shall be in default, plus penalty and interest, as provided for in this Law, to the real property taxes due and owing to Town in the next succeeding year, and the Town Receiver of Taxes is directed to collect the same in the same manner as real property taxes due and owing to the Town are collected.

Section 1019 - Performance Bonds

The Town Board may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder unless such User first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Town Board to be necessary to achieve consistent compliance.

Section 1020 - Liability Insurance

The Town Board may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

Section 1021 - Informant Rewards

The Town Board is authorized to pay up to \$500 for information leading to the discovery of noncompliance by a User. In the event that the information provided results in an administrative fine or civil penalty levied against the User, the Town Board is authorized to disperse up to ten (10) percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000, including the discovery reward.

Town of Duanesburg
Sewer Use Law

Section 1022 - Penalty for Late Connection

All property owners within the original Sewer District shall connect to the sewer system within one (1) year of notification of the startup of the POTW and the collection system. Penalties will be assessed in accordance with provisions specified in other sections of this article.

END OF ARTICLE 10

Town of Duanesburg Sewer Use Law

ARTICLE 11

CHARGES

- Section 1101 - Sewage Service Charges
- Section 1102 - Surcharge for Abnormal Sewage
- Section 1103 - Permit and Connection Charges
- Section 1104 - Billing Period
- Section 1105 - Pretreatment Program Costs
- Section 1106 - Capital Recovery
- Section 1107 - Collection of Charges
- Section 1108 - Fiscal Year for System
- Section 1109 - Impact Fees
- Section 1110 - Use of Revenues

Section 1101 - Sewage Service Charges

A single family dwelling will be assessed one Equivalent Dwelling Unit (EDU) in the Sewer District. Because commercial, industrial and institutional properties can and will generate more wastewater than a single family home, multiples of EDU's have been computed for all non-residential uses within the district using generally accepted engineering standards to account for this increased use. This allows the sewer costs to be assessed on a benefit basis fairly in proportion to wastewater generation among all properties within the district. The User Unit Schedule for typical uses shall be in accordance with Appendix B. In the event that a proposed use in the District is not listed, then the Town Board shall determine the EDU charge based on generally accepted engineering standards.

The annual cost of sewer service for properties within the District will consist of two components; the debt service on the capital costs, and the annual cost to operate and maintain the sewer collection system and the treatment plant as follows:

(a) **Operation & Maintenance Charge:** All properties discharging or depositing sewage into the public sewers shall pay a sewer service charge, which charge shall be collected as a sewer rent. The Operation and Maintenance charges for each property shall be as per the schedule shown in Appendix B, except that vacant parcels shall not be charged.

(b) **Capital Project Debt Service Charge:** All properties within the legal boundaries of the Sewer District shall pay a Capital Project Debt Service charge, which charge shall be in accordance with Appendix B. Vacant parcels will pay a debt service charge as shown in Appendix B.

The Town Board shall prepare a sewer budget in accordance with Town Law that will specify the Operation and Maintenance costs and Debt Service charges proposed for the succeeding budget year. In accordance with Town Law, sewer rolls will be prepared and adopted by the Town Board annually to determine the number of debt service EDU's, and Operation and Maintenance EDU's that will be charged for sewer service. These charges to each property within the Sewer District will be shown as a separate line item on the County tax bill prepared in January of each year.

Town of Duanesburg Sewer Use Law

Section 1102 - Surcharge for Abnormal Sewage

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage shall pay a surcharge according to the following formula:

$$UC(t) = UC(n) + UC(an)$$

Where:

UC(t)	=	Total User Charge for POTW operation and maintenance
UC(n)	=	User Charge associated with normal sewage
UC(an)	=	User Charge associated with abnormal sewage
UC(n)	=	OM X (OQ/100) X (QLA/QA)
UC(an)	=	OM { [OB/100 X (BIA-Bn)/BA] + [OS/100 X (SLA-Sn)/SA] + [OP/100 X (PIA-Pn)/PA] + [ONH/100 X (NHIA-NHn)/NHA] + [OTK/100 X (TKIA-TKn)/TKA]}

Town of Duquesburg Sewer Use Law

Where:

OM	=	total annual POTW operation and maintenance costs
OQ	=	percentage of OM attributable to flow (Q)
OB	=	percentage of OM attributable to BOD5
OS	=	percentage of OM attributable to suspended solids
OP	=	percentage of OM attributable to total phosphorus
ONH	=	percentage of OM attributable to ammonia
OTK	=	percentage of OM attributable to total Kjeldahl nitrogen
QIA	=	average daily flow rate (MGD) from discharger
BLA	=	average daily BOD5 loading (LB/DAY) from discharger
SIA	=	average daily suspended solids loading (LB/DAY) from discharger
PIA	=	average daily total phosphorus loading (LB/DAY) from discharger
NHIA	=	average daily ammonia loading (LB N/DAY) from discharger
TKIA	=	average daily total Kjeldahl nitrogen loading (LB N/DAY) from discharger
QA	=	average daily flow rate (MGD) at the POTW treatment plant
BA	=	average daily BOD5 loading (LB/DAY) at the POTW treatment plant
SA	=	average daily suspended solids loading (LB/DAY) at the POTW treatment plant
PA	=	average daily total phosphorus loading (LB/DAY) at the POTW treatment plant
NHA	=	average daily total ammonia loading (LB N/DAY) at the POTW treatment plant
TKA	=	average daily total Kjeldahl nitrogen loading (LB N/DAY) at the POTW Treatment Plant
Bn	=	BOD5 loading (LB/DAY) in discharge if it were normal sewage
Sn	=	suspended solids loading (LB/DAY) in discharge if it were normal sewage
Pn	=	total phosphorus loading (LB/DAY) in discharge if it were normal sewage
NHn	=	ammonia loading (LB N/DAY) in discharge if it were normal sewage
TKn	=	total Kjeldahl nitrogen loading (LB N/DAY) in discharge if it were normal sewage

Note: if any difference terms in the equation above is negative, then that portion of the equation shall not be used, that is, the difference shall be set to zero when it is negative.

Note: all averages are arithmetic averages determined from available data during the billing period.

Section 1103 - Permit and Connection Charges

A permit will be required prior to the commencement of any new work or modification to any component of the POTW on sewage collection system. The following permit(s) and fee(s) are hereby established:

Town of Duanesburg Sewer Use Law

Permit Fee - The fee set annually by the Town Board to cover the cost of lateral permit review, administration, and field inspection of the building lateral installation to insure conformance with this sewer use law. The Town board will adopt a fee schedule for residential, commercial and industrial building lateral permits, sewer lateral permits and other sewer work.

Connection Fee - The Town Board will establish a hook-up fee which will be charged to all users of the sewer system. During the initial start-up of the system, all initial users will be given a one-year period to install the building lateral during which time the connection fee will be waived. Following this period, any initial users, and new users, will be required to pay the connection fee along with the permit fee.

The connection fee will be established to serve the following two purposes. First, to recover funds invested by the original Sewer District to provide the infrastructure and capacity for future users. Second, to cover district administrative and engineering expenses related to the review of the proposed new lateral, or sewer line extension. The Town Board will adopt a fee schedule for the connection charge for various types of connections (i.e. residential, commercial, industrial). Funds collected from collection fees, will be used by the Sewer District and accounted for in appropriate budget line items.

Administrative Surcharge Fee - The Town Board shall also establish a separate fee to recover any shortage of funds needed during the budget year for which the permit application is made.

Section 1104 - Billing Period

(a) The Billing Period for operation & maintenance charges described in Section 1101(a) of this article shall be annually for all users.

(b) The Billing Period for Capital Project Debt Service Charges described in Section 1101(b) of this article shall be annually.

Section 1105 - Pretreatment Program Costs

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the User, and include:

- (1) reimbursement of costs of setting up and operating the pretreatment program
- (2) issuing permits
- (3) monitoring, inspections, and surveillance procedures
- (4) costs of equipment and supplies
- (5) reviewing accidental discharge procedures
- (6) construction inspections
- (7) filing appeals
- (8) application for consistent removal status as outlined in 40 CFR 403
- (9) other reasonable expenses to carry out the program to satisfy the requirements of this Law, the NYSDEC, and the Federal government

Town of Duanesburg Sewer Use Law

Section 1106 - Capital Recovery

The Town may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat, and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

Section 1107 - Collection of Charges

Provisions of Article 10 of this Law relating to the collection of penalties shall apply to the collection of Sewer Service Charges and Abnormal Sewage Service Surcharges, unless where otherwise provided by application of the Sewer Rent Law by Town.

Section 1108 - Fiscal Year for System

The POTW shall be operated on the basis of a fiscal year commencing on the first day of January and ending on the thirty-first day of December.

Section 1109 - Impact Fees

The Town Board shall have the authority to impose impact fees on new development, which development may:

- (1) - cause enlargement of the service area of the POTW
- (2) - cause increased hydraulic and/or treatment demands on the POTW

Section 1110 - Use of Revenues

Revenues derived from user charges and associated penalties, and impact fees, shall be credited to the Sewer fund. These funds shall be used exclusively for the following functions:

- (a) For the payment of the operation and maintenance, including repair and replacement costs of the Town POTW,
- (b) For the discovery and correction of inflow and infiltration,
- (c) For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Town POTW, and
- (d) For the extension, enlargement, replacement of, and/or additions to the Town POTW, including any necessary appurtenances.

END OF ARTICLE 11

Town of Duaneburg
Sewer Use Law

ARTICLE 12

PUBLIC DISCLOSURE OF POTW OPERATIONS

Section 1201- POTW Operations Open to the Public
Section 1202- Procedural Requirements Available
Section 1203- Validity Through Public Inspection

Section 1201- POTW Operations Open to the Public

It shall be the policy of the Town Board to conduct all business with full disclosure to the public.

Section 1202- Procedural Requirements Available

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Law and for requesting a hearing shall be formulated by the Town and be made available to any resident of the Town upon request.

Section 1203- Validity Through Public Inspection

The Town shall formulate procedures to make available to the public for inspection such orders, statements of policy, and interpretations used by the Town in administration of this Law. No rule, regulation, or civil order shall be valid until it has been available for public inspection.

END OF ARTICLE 12

Town of Duanesburg
Sewer Use Law

ARTICLE 13

CONFLICTS, SEVERABILITY, EFFECTIVE DATE AND APPLICABILITY

Section 1301- Conflicts
Section 1302- Severability
Section 1303- Effective Date

Section 1301- Conflicts

The provisions of any Town law in conflict with any provision of this Law are hereby repealed.

Section 1302- Severability

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law which shall nonetheless remain in full force and effect.

Section 1303- Effective Date

This law shall take effect immediately upon its filing in the office of the Secretary of State.

END OF ARTICLE 13

END OF LAW

Town of Duanesburg
Sewer Use Law

APPENDIX A

Parameters of Concern

- Class A - Halogenated Hydrocarbons
- Class B - Halogenated Organics (Other than Hydrocarbons)
- Class C - Pesticides (Includes Herbicides, Algaecides, Biocides, Slimicides and Mildewcides)
- Class D - Aromatic Hydrocarbons
- Class E - Tars
- Class F - Substituted Aromatics (Other than Hydrocarbons and Non-Halogenated)
- Class G - Miscellaneous
- Class M - Metals and their Compounds

Class A - Halogenated Hydrocarbons

- A01. Methyl Chloride
- A02. Methylene Chloride
- A03. Chloroform
- A04. Carbon Tetrachloride
- A05. Freon/Genatron
- A06. Other Halomethanes
- A07. 1,1,1-Trichloroethane
- A08. Other Haloethanes
- A09. Vinyl Fluoride
- A10. Vinyl Chloride
- A11. Dichloroethylene
- A12. Trichloroethylene
- A13. Tetrachloroethylene
- A14. Chlorinated Propane
- A15. Chlorinated Propene
- A16. Hexachlorobutadiene
- A17. Hexachlorocyclopentadiene
- A18. Chlorinated Benzene
- A19. Chlorinated Toluene
- A20. Fluorinated Toluene
- A21. Polychlorinated Biphenyl (PCB)
- A22. Chlorinated Naphthalene
- A23. Dechlorane (C₁₀Cl₁₂)
- A24. Hexachlorocyclohexane (BHC)
- A99. Halogenated Hydrocarbons Not Specified Above

Town of Duaneburg Sewer Use Law

Class B - Halogenated Organics (Other than Hydrocarbons)

- B01. Phosgene
- B02. Methyl Chloromethyl Ether
- B03. Bis-Chloromethyl Ether
- B04. Other Chloroalkyl Ethers
- B05. Benzoyl Chloride
- B06. Chlorothymol
- B07. Chlorinated Phenol
- B08. Chlorinated Cresols or Xylenols
- B09. Chlorendic Acid
- B10. Chloroaryl Ethers
- B11. Dichlorophene or Hexachlorophene
- B12. Chlorinated Aniline (Including Methylene Bis (2-Chloroaniline))
- B13. Dichlorobenzidine
- B14. Chlorinated Diphenyl Oxide
- B15. Chlorinated Toluidine
- B16. Kepone (C₁₀Cl₁₀)
- B17. Dichlorovinyl Sulfonyl Pyridine
- B18. Chloropicrin
- B19. Trichloromethyl Thio-Phthalimide
- B20. Trichloro-Propylsulfonyl Pyridine
- B21. Tetrachloro-Methylsulfonyl Pyridine
- B22. Tetrachloro-Isophthalonitrile
- B99. Halogenated Organics Not Specified Above

Class C - Pesticides (Includes Herbicides, Algaecides, Biocides, Slimecides and Mildewcides)

- C01. Aldrin/Dieldrin
- C02. Chlordane and Metabolites
- C03. DDT and Metabolites
- C04. Endosulfan/Thiodan and Metabolites
- C05. Endrin and Metabolites
- C06. Heptachlor and Metabolites
- C07. Malathion
- C08. Methoxychlor
- C09. Parathion
- C10. Toxaphene
- C11. Sevin
- C12. Kelthane
- C13. Diazinon
- C14. Dithane
- C15. Carbaryl
- C16. Silvex
- C17. Dithiocarbamates
- C18. Maneb
- C19. Dioxathion
- C20. Tandex/Karbutilate

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- C21. Carbofurans
- C22. Pentac
- C23. Folpet
- C24. Dichlone
- C25. Rotenone
- C26. Lindane/Isotox
- C27. Simazine
- C28. Methoprene
- C99. Pesticides Not Specified Above

Class D - Aromatic Hydrocarbons

- D01. Benzene
- D02. Toluene
- D03. Xylene
- D04. Biphenyl
- D05. Naphthalene
- D06. Ethylbenzene
- D07. Styrene
- D08. Acenaphthene
- D09. Fluoranthene
- D99. Aromatic Hydrocarbons Not Specified Above

Class E - Tars

- E01. Coal Tar
- E02. Petroleum Tar
- E99. Tars Not Specified Above

Class F - Substituted Aromatics (Other than Hydrocarbons and Non-Halogenated)

- F01. Phenol, Cresol or Xylenol
- F02. Catechol, Resorcinol, or Hydroquinone
- F03. Nitrophenols
- F04. Nitrobenzenes
- F05. Nitrotoluenes
- F06. Aniline
- F07. Toluidines
- F08. Nitroanilines
- F09. Nitroanisole
- F10. Toluene Diisocyanate
- F11. Dimethylaminoazobenzene
- F12. Benzoic Acid (and Benzoate Salts)
- F13. Phthalic, Isophthalic or Terephthalic Acid

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- F14. Phthalic Anhydride
- F15. Phthalate Esters
- F16. Phenoxyacetic Acid
- F17. Phenylphenols
- F18. Nitrobiphenyls
- F19. Aminobiphenyls (Including Benzidine)
- F20. Diphenylhydrazine
- F21. Naphthylamines
- F22. Carbazole
- F23. Acetylaminofluorene
- F24. Dyes and Organic Pigments
- F25. Pyridine
- F99. Substituted Aromatics Not Specified Above

Class G - Miscellaneous

- G01. Asbestos
- G02. Acrolein
- G03. Acrylonitrile
- G04. Isophorone
- G05. Nitrosamines
- G06. Ethyleneimine
- G07. Propiolactone
- G08. Nitrosodimethylamine
- G09. Dimethylhydrazine
- G10. Maleic Anhydride
- G11. Methyl Isocyanate
- G12. Epoxides
- G13. Nitrofurans
- G14. Cyanide

Class M - Metals and Their Compounds

- M01. Antimony
- M02. Arsenic
- M03. Beryllium
- M04. Cadmium
- M05. Chromium
- M06. Copper
- M07. Lead
- M08. Mercury
- M09. Nickel
- M10. Selenium
- M11. Silver
- M12. Thallium
- M13. Zinc
- M99. Metals Not Specified Above

Town of Duanesburg
Sewer Use Law
APPENDIX B
USER UNIT SCHEDULE

CLASSIFICATION #	CLASSIFICATION DESCRIPTION	# OF USER UNITS (EDU's) PER CLASSIFICATION
1.	Commercial/Industrial Enterprise: a) less than 5 employees b) 6 - 10 employees c) 11 - 20 employees d) (1-1/2 EDU's for every 10 or portion thereof)	1 Unit 1-1/2 Units 3 Units
2.	Single Family Residence (see note 1)	1 Unit
2a.	Two Family Residence	2 Units
2b.	For each additional apartment unit above two (see note 2)	1/2 Unit
3.	Library	1 Unit
4.	Convenient/Deli Store	1-1/2 Units
5.	Beauty or Barber Shop	1 Unit
6.	Restaurant/Bar a) 0 - 45 Occupancy b) 46 - 90 Occupancy c) 91 - 135 Occupancy d) (2 EDU's for every 45 or portion thereof)	2 Units 3 Units 5 Units
7.	Commercial Laundromat (per five washers or portion thereof)	2 Units
8.	Post Office	1 Unit
9.	Nursing/Adult Homes (Single Family Residence plus charge per bed)	1 Unit plus 1/4 Unit for each bed.
10.	Motel, Hotel (per room) w/o Restaurant	1/4 Unit
11.	Fire Department	1 Unit
12.	Churches	1/2 Unit
13.	Church Hall	1 Unit
14.	Rectory	1 Unit
15.	School (see note 3)	1 Unit for 10 persons
16.	Vacant Lot (see Note 4)	1/2 Unit

Note 1: A single property which is used as both: 1. a residence and 2. a business, in which its only employees are the property owner and immediate family members, all of whom reside on the premises, shall be treated the same as residential properties with a "Home Occupation" and shall be classified under Item 2 on the above schedule and, therefore, assigned 1 EDU. If public bathroom facilities are provided as part of the home occupation, or if significant additional wastewater is generated above normal residential usage, then the Town Board may assess additional units in accordance with the Table above.

Note 2: To qualify for the 1/2 unit reduction for 3 or more apartment units, all units must be in the same building.

Town of Duanesburg Sewer Use Law

Note 3: Under Classification #15, School, the number of persons to be used to determine the number of units will include students, faculty, and staff.

Note 4: The term "vacant lot" as used in the foregoing schedule shall refer to any lot which meets the building and zoning code requirements for a single family residence.

Resolution # 147-01

**TOWN OF DUANESBURG
SEWER USE LAW
ADDENDUM NO. 1
November 26, 2001**

The following modifications, clarifications and additions are proposed:

A) Amend Section 1103 to establish the fees for permits for the year 2002 as follows;

- The permit fee for residential, commercial, or industrial laterals shall be set at \$30.00.
- The connection fee shall be set at \$1,000 per user, except that the connection fee shall be waived for properties within the district if the permit is obtained before June 30, 2002.
- The Administrative Surcharge Fee for 2002 shall be prorated by month in accordance with Table 1 shown on the next page.

The above fees along with the prorated O & M costs for the remainder of the year shall be paid at the time of permit application.

Town of Duanesburg
Table No. 1
Proposed Schedule of Sewer Permit Charges 2002
(Amount to be Collected at Time of Permit Issuance)

Month	Permit Fee	Administrative Surcharge	Prorated O & M	Connection Fee	Total Permit Fee
January	30	0	240	0	270
February	30	20	220	0	270
March	30	40	200	0	270
April	30	60	180	0	270
May	30	80	160	0	270
June	30	100	140	0	270
July	30	120	120	1000	1270
August	30	140	100	1000	1270
September	30	160	80	1000	1270
October	30	180	60	1000	1270
November	30	200	40	1000	1270
December	30	220	20	1000	1270

**TOWN OF DUANESBURG
SEWER USE LAW
ADDENDUM NO. 1
November 26, 2001**

- B) Amend the User Unit Schedule provided in Appendix B to add Classification #17, Vacant Commercial Parcel and Note 5, both of which are attached.

Town of Duaneburg
Sewer Use Law
APPENDIX B
USER UNIT SCHEDULE

CLASSIFICATION #	CLASSIFICATION DESCRIPTION	# OF USER UNITS (EDU'S) PER CLASSIFICATION
1.	Commercial/Industrial Enterprise: a) less than 5 employees b) 6 - 10 employees c) 11 - 20 employees d) (1-1/2 EDU's for every 10 or portion thereof)	1 Unit 1-1/2 Units 3 Units
2.	Single Family Residence (see note 1)	1 Unit
2a.	Two Family Residence	2 Units
2b.	For each additional apartment unit above two (see note 2)	1/2 Unit
3.	Library	1 Unit
4.	Convenient/Deli Store	1-1/2 Units
5.	Beauty or Barber Shop	1 Unit
6.	Restaurant/Bar a) 0 - 45 Occupancy b) 46 - 90 Occupancy c) 91 - 135 Occupancy d) (2 EDU's for every 45 or portion thereof)	2 Units 3 Units 5 Units
7.	Commercial Laundromat (per five washers or portion thereof)	2 Units
8.	Post Office	1 Unit
9.	Nursing/Adult Homes (Single Family Residence plus charge per bed)	1 Unit plus 1/4 Unit for each bed.
10.	Motel, Hotel (per room) w/o Restaurant	1/4 Unit
11.	Fire Department	1 Unit
12.	Churches	1/2 Unit
13.	Church Hall	1 Unit
14.	Rectory	1 Unit
15.	School (see note 3)	1 Unit for 10 persons
16.	Vacant Lot (see Note 4)	1/2 Unit
17.	Vacant Commercial/Business Parcel (See Note 5)	1 Unit for every 4 Acres

Note 1: A single property which is used as both: 1. a residence and 2. a business, in which its only employees are the property owner and immediate family members, all of whom reside on the premises, shall be treated the same as residential properties with a "Home Occupation" and shall be classified under Item 2 on the above schedule and, therefore, assigned 1 EDU. If public bathroom facilities are provided as part of the home occupation, or if significant additional wastewater is generated above normal residential usage, then the Town Board may assess additional units in accordance with the Table above.

**Town of Duanesburg
Sewer Use Law**

Note 2: To qualify for the 1/2 unit reduction for 3 or more apartment units, all units must be in the same building.

Note 3: Under Classification #15, School, the number of persons to be used to determine the number of units will include students, faculty, and staff.

Note 4: The term "vacant lot" as used in the foregoing schedule shall refer to any lot which meets the building and zoning code requirements for a single family residence.

Note 5: If a parcel within the Sewer District boundaries is also in a General Business District zoning of the Village of Delanson or a Commercial Zone of the Town of Duanesburg and larger than 4.0 acres, then this parcel shall be assigned 1.00 EDU's for each 4 acres. Parcels over 4 acres shall be incrementally assigned additional EDU's by dividing the acreage by 4. If a property in the Commercial or General Business District is used solely for residential use, then the EDU charge for this parcel shall follow residential calculations for EDU's. If said parcel is occupied for General Business purposes, then the EDU charge shall be the larger of either the EDU charged as calculated by No. 17, or as per the User Unit Schedule as applicable to the current use of the property.

**TOWN OF DUANESBURG
SEWER USE LAW
ADDENDUM NO. 1
November 26, 2001**

C) Amend Section 605 – Lateral Pipe Materials Section (2) as follows:

Delete reference to ASTM Specification D-2241 and replace with ASTM Specification D-3034.

DUANESBURG

LL7 2006 FIRE PREVENTION AND BUILDING CODE

Local Law Filing

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

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

- County
- City of Duanesburg
- Town
- Village

Local Law No. 7 of the year 20 06

A local law PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK
(Insert Title)
STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

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

- County
- City of Duanesburg as follows:
- Town
- Village

A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE.
(See attached)

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 20 06 of the (County)(City)(Town)(Village) of Town of Duanesburg was duly passed by the Duanesburg Town Board on December 14 20 06, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

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

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

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

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

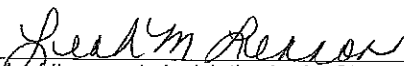
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

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

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

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

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



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


Date: December 14, 2006

(Seal)

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

STATE OF NEW YORK
COUNTY OF Schenectady

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



Signature
Town Attorney

Title

County _____
City of Town of Duanesburg
Town _____
Village _____

Date: December 15, 2006

TOWN OF DUANESBURG

Local Law No. 7 of the year 2006

A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

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

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the "Uniform Code") and the State Energy Conservation Construction Code (the "Energy Code") in this Town of Duanesburg. This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures and premises, regardless of use or occupancy, are subject to the provisions of this local law.

SECTION 2. DEFINITIONS

In this local law:

"Building Permit" shall mean a permit issued pursuant to section 4 of this local law. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Certificate of Occupancy" shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

"Code Enforcement Officer" shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

"Code Enforcement Personnel" shall include the Code Enforcement Officer and all Inspectors.

"Compliance Order" shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

"Energy Code" shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

"Inspector" shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

"Operating Permit" shall mean a permit issued pursuant to section 10 of this local law. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Permit Holder" shall mean the Person to whom a Building Permit has been issued.

"Person" shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

"Stop Work Order" shall mean an order issued pursuant to section 6 of this local law.

"Temporary Certificate" shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

"Town" shall mean the Town of Duanesburg.

"Uniform Code" shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates and Operating Permits, fire safety

and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

- (4) to issue Stop Work Orders;
- (5) to review and investigate complaints;
- (6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;
- (7) to maintain records;
- (8) to collect fees as set by the Town Board of this Town;
- (9) to pursue administrative enforcement actions and proceedings;
- (10) in consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Town Board of this Town. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board of this Town to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed by the Town Board of this Town to act under the supervision and direction of the Code Enforcement

Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town.

SECTION 4. BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

- (1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
- (2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (4) installation of fences which are not part of an enclosure surrounding a swimming pool;

- (5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (6) construction of temporary motion picture, television and theater stage sets and scenery;
- (7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) installation of partitions or movable cases less than 5'-9" in height;
- (9) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code

and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in

compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within [6] months following the date of issuance. Building Permits shall expire [12] months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The

Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

- (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law.

Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY

(a) Certificates of Occupancy required. A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.

(b) Issuance of Certificates of Occupancy. The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:

- (1) a written statement of structural observations and/or a final report of special inspections, and
- (2) flood hazard certifications.

(c) Contents of Certificates of Occupancy. A Certificate of Occupancy shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued;

- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed [6] months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures established by Local Law Number 1 of the year 1992, as now in effect or as hereafter amended from time to time.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

- (1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;
- (2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
- (3) use of pyrotechnic devices in assembly occupancies;
- (4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- (5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
- (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

- (3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty six (36) months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

- (1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

- (2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
- (3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and
- (4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and
- (9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to Town Board of this Town a written report and summary of all business conducted by the Code

Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

SECTION 15. VIOLATIONS

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

SECTION 16. FEES

A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

SECTION 17. INTERMUNICIPAL AGREEMENTS

The Town Board of this Town may, by resolution, authorize the Town Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

SECTION 18. PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 19. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

DUANESBURG

LL1 2019 ZONING AMENDMENT

Local Law Filing

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

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

County City Town Village
(Select one.)

of Duanesburg

FILED
STATE RECORDS

JUN 13 2019

DEPARTMENT OF STATE

Local Law No. 1 of the year 20 19

A local law AMENDING THE ZONING MAP OF THE TOWN OF DUANESBURG

(insert Title)

TO RE-ZONE TAX MAP PARCEL NO. 67.05-2-4 FROM HAMLET (H) TO

MANUFACTURING & LIGHT INDUSTRIAL (C-2)

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

County City Town Village
(Select one.)

of Duanesburg as follows:

(see attached)

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2019 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the June on 13 2019, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

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

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

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

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

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

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

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

Date: June 13, 2019

(Seal)

TOWN OF DUANESBURG LOCAL LAW NO. 1 OF 2019

**A LOCAL LAW AMENDING THE ZONING MAP OF THE TOWN OF DUANESBURG
TO RE-ZONE TAX MAP PARCEL NO. 67.05-2-4 FROM HAMLET (H) TO
MANUFACTURING & LIGHT INDUSTRIAL (C-2)**

BE IT ENACTED by the Town Board of the Town of Duanesburg in the County of Schenectady as follows:

Section 1. Title of the Local Law.

This local law shall be entitled “A Local Law Amending the Zoning Map of the Town of Duanesburg to Re-zone Tax Map Parcel No. 67.05-2-4 from Hamlet (H) to Manufacturing & Light Industrial (C-2).”

Section 2. Authorization.

This local law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

Section 3. Purpose.

The Town of Duanesburg has received an application from the owner of tax map parcel #67.05-2-4 to re-zone the property from Hamlet (H) to Commercial & Light Industrial(C-2). The Town Board finds that this request for a zone change is consistent with the Comprehensive Plan and the character of the community along Duanesburg Road at this location.

Section 4. Zoning Map Amendment

The Town of Duanesburg Zoning Map is hereby amended to show the change of #67.05-2-4 from Hamlet (H) to Commercial & Light Industrial (C-2), as set forth on the attached map and attached property description.

Section 5 Supersession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Town of Duanesburg Town Code, in so far as such statues are inconsistent with this Local Law and any other laws or regulations of the Town of Duanesburg are superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same.

Section 6. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 7. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

Property Description: #67.05-2-4

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements thereon erected, situated, lying and being in the Town of Duanesburg, County of Schenectady and State of New York and in the Village of Duanesburg, bounded and described as follows: viz: commencing at the Northeast corner of the lands owned by Alice B. Turnbull, (now or formerly), at its intersection with the South line of the Great Western Turnpike, running from thence in an Easterly direction along the south line of the Great Western Turnpike a distance of about three hundred twenty (320) feet to the lands heretofore sold by Ralph A. McDougall and wife to Common School District Number Five; running from thence in a southerly direction along the West line of lands of Common School District Number Five, a distance of one hundred seventy-three (173) feet; running from thence in a Westerly direction and parallel with the course first above mentioned along the lands, now or formerly of Ralph A. McDougall and wife, a distance of three hundred twenty (320) feet more or less to the East line of said Alice B. Turnbull's land, now or formerly, running from thence in a northerly direction along the lands of said Alice B. Turnbull, now or formerly, one hundred seventy-three (173) feet to the point or place of beginning. Being a portion of the premises heretofore conveyed to Ralph A. McDougall and Kate O'Neil McDougall, his wife, by Catherine Schrade by deed dated april 12, 1909.

Excepting from the above described parcel, a parcel of land conveyed by Leroy J. Knowles and Marion Knowles, his wife, to John Wright and Jennie Wright his wife, by deed dated April 30, 1929 and recorded in the Schenectady County Clerk's Office on May 2, 1929 in Book 356 of Deeds at Page 350.

67.05-2-4



May 3, 2019

polygonLayer

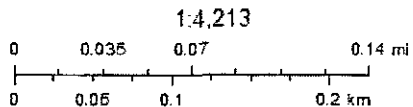
█ Override 1

█ Park and Open Spaces

Parcels

█ Override 1

Parcels



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

No Author
This map and information is provided as is. We make no warranties or guarantees, expressed or implied. The user assumes all risks and responsibility for determining whether this map is sufficient for purposes intended. The data is deemed reliable but not guaranteed.

DUANESBURG

LL5 2018 TRUCKS PROHIBITED ON CERTAIN ROADS

Local Law Filing

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

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

County City Town Village
(Select one.)

of Duanesburg

Local Law No. 5 of the year 20 18

A local law entitled "Trucks Prohibited on Certain Roads."
(Insert Title)

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

County City Town Village
(Select one.)

of Duanesburg as follows:

see attached

FILED
STATE RECORDS

AUG 24 2018

DEPARTMENT OF STATE

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2018 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town Board on August 23, 2018, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

3. (Final adoption by referendum.)

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

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

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

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

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

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

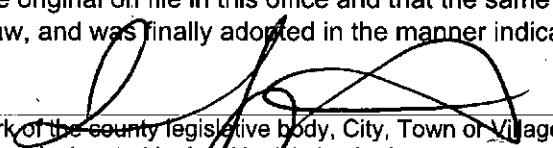
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

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

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

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

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



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

Date:

August 28, 2018

(Seal)

TOWN OF DUANESBURG LOCAL LAW NO. 5 OF 2018

TRUCKS PROHIBITED ON CERTAIN ROADS

BE IT ENACTED by the Town Board of the Town of Duanesburg in the County of Schenectady as follows:

Section 1. Title of the Local Law.

This local law shall be entitled "Trucks Prohibited on Certain Roads."

Section 2. Authorization.

This local law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

Section 3. Purpose.

To protect public health, safety, and welfare by limiting the use of certain roads within the Town by trucks with a gross weight in excess of 22,400 lbs (to be expressed on Town signs as "10 tons"). This limitation will help ensure that such trucks are prohibited from using roads that may be steep, narrow and with insufficient road base. The Town Highway Superintendent has observed that such truck usage is damaging to the roadways. Members of the public have also complained that such truck usage has resulted in unsafe situations.

Section 4. Trucks Prohibited on Certain Roads

Trucks, commercial vehicles, tractors, tractor-trailers combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations with a gross weight in excess of 22,400 pounds (expressed on Town signs as "10 tons") are prohibited from traveling upon the following roads. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded. This local law shall only apply to the following roads and portions of such roads that are within the Town of Duanesburg. Signs notifying drivers of such prohibition and exclusion therefrom shall be installed on each road or portions of such road identified herein.

Name of Road

- Cole Road (Schenectady County Road)
- Youngs Road (Schenectady County Road)
- Mudge Road (Town of Duanesburg Road)
- Alexander Road (Town of Duanesburg Road)
- Turnbull Road (Town of Duanesburg Road)
- Gage Road (Town of Duanesburg Road)
- Crow Hill Road (Town of Duanesburg Road)
- Fitzdom Road (Town of Duanesburg Road)

Section 5 Supersession.

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Town of Duanesburg Town Code, in so far as such statutes are inconsistent with this Local Law and any other laws or regulations of the Town of Duanesburg are superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same.

Section 6. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 7. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.