

DANBURY SUBDIVISION REGULATIONS
TOWN OF DANBURY, NEW HAMPSHIRE

September 1989

Amended July 22, 2003

(Text edited at public hearing begun on April 22, 2003 and continued through July 22, 2003)

SECTION 1. AUTHORITY

- 1.1. Pursuant to the authority vested in the Danbury Planning Board by the voters of the Town of Danbury at the Town Meeting of March 14, 1967 (Article 21), the Special Town Meeting of September 26, 2000 (Floodplain Development Ordinance and Telecommunications Ordinance), the Town Meeting of March 12, 2002 (Land Use and Zoning Ordinance), the Town Meeting of March 11, 2003 (Cluster Residential Development Amendments to the Land Use and Zoning Ordinance), and in accordance with the provisions of New Hampshire Revised Statutes Annotated Chapter 674:35 and 675:6, as they may be amended from time to time, the Danbury Planning Board adopts the following regulations governing the subdivision of land in the Town of Danbury, to be hereinafter known and cited as the Danbury Subdivision Regulations, and to amend and supercede the Danbury Subdivision Regulations dated September 1989..

SECTION 2. PURPOSE AND APPLICABILITY

- 2.1. The purpose of these regulations is to provide for the orderly present and future development of the Town of Danbury according to reasonable standards, and to meet the goals of the Comprehensive Master Plan and the Land Use and Zoning Ordinance, including protection of the Town's scenic beauty and its agricultural and forest resources, the encouragement and promotion of historic preservation and economic growth, and the provision of appropriate services to and for all citizens of Danbury. These regulations are intended to:
- 2.1.1. Afford the best practicable living conditions with regard to the health, safety, convenience and welfare of town residents and visitors.
 - 2.1.2. Provide safe and uncongested roads.
 - 2.1.3. Protect taxpayers from future costs of correcting unhealthy and over-crowded developments.
 - 2.1.4. Set standards for infrastructure, including but not limited to:
 - 2.1.4.1.roads and streets
 - 2.1.4.2.water supplies
 - 2.1.4.3.septic and drainage systems
 - 2.1.4.4.fire and hazard protection
 - 2.1.4.5.lighting.
- 2.2. These regulations apply to Planning Board review and approval or disapproval of all subdivisions as defined by RSA 672:14, as it may be amended from time to time, and minor lot line adjustments or boundary agreements. They do not apply to voluntary mergers as defined by RSA 674:39-a, as it may be amended from time to time.
- 2.3. Unless otherwise stated, or unless otherwise required by the context, any reference to a statute, law, regulation, code, or agency in this ordinance shall be deemed to include any future amendments made to such statute, law, regulation or code, and any successor agencies.

SECTION 3. ADOPTION, AMENDMENTS, AND EFFECTIVE DATE

- 3.1. These regulations and all amendments to them shall be adopted pursuant to RSA 675:1 and RSA 675:6, as they may be amended from time to time, after a public hearing held by the Planning Board, followed by adoption and certification by the board, and filing with the Town Clerk, the Board of Selectmen, and the Merrimack County Registry of Deeds. They shall take effect immediately after copies are certified and placed on file with the Town Clerk.

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SECTION 4. GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

The property owner, subdivider and/or builder shall observe the following general requirements and principles of land subdivision:

4.1. Character of Land for Subdivision

Land of such character that it cannot, in the judgment of the Planning Board, be safely used for building development purposes because of exceptional danger to health or peril from fire, flood hazard, poor drainage, poor soil conditions, excessive slope, or other hazardous conditions, shall not be platted for residential, commercial, or industrial subdivisions, nor for such other uses as may increase danger to life or property, or aggravate the flood hazard.

4.2. Premature Subdivision

Scattered or premature subdivision of land as would involve danger or injury to health, safety, general welfare or prosperity by reason of the lack of water supply, sewage disposal, drainage, transportation, schools, fire protection, or other public services, or necessitate an excessive expenditure of public funds for the supply of such services, shall not be approved by the Planning Board.

4.3. Preservation of Existing Features

Suitable means shall be used to preserve and protect significant existing features such as trees, vegetated buffers, scenic points, stone walls, rock outcroppings, shallow to bedrock lands, steeply sloping lands, water bodies, wetlands, other natural areas, significant wildlife habitat, and historic properties. Where possible, boundary lines shall follow stone walls. In considering a proposed subdivision, the Planning Board may make recommendations to the subdivider relating to earth movement and retention of natural cover in order to preserve the natural and scenic beauty of Danbury and its environment.

4.4. Lots with frontage solely on a Class VI roadway shall not be permitted.

4.5. Proposed plans shall conform with all pertinent state and town laws or regulations.

4.6. Insofar as possible, all subdivision shall be consistent with the New Hampshire Smart Growth Principles as described in RSA 9-B:3, as it may be amended from time to time. "Smart Growth" means the control of haphazard and unplanned development and the use of land which results over time, in the inflation of the amount of land used per unit of human development, and of the degree of dispersal between such land areas. "Smart growth" also means the development and use of land in such a manner that its physical, visual, or audible consequences are appropriate to the traditional and historic New Hampshire landscape. Smart growth may include denser development of existing communities, encouragement of mixed uses in such communities, the protection of villages, and planning so as to create ease of movement within and among communities. Smart growth preserves the integrity of open space in agricultural, forested, and undeveloped areas. The results of smart growth may include, but shall not be limited to:

4.6.1. Vibrant commercial activity within cities and towns;

4.6.2. Strong sense of community identity;

4.6.3. Adherence to traditional settlement patterns when siting municipal and public buildings and services;

4.6.4. Ample alternate transportation modes;

4.6.5. Uncongested roads;

4.6.6. Decreased water and air pollution;

4.6.7. Clean aquifer recharge areas;

4.6.8. Viable wildlife habitat;

4.6.9. Attractive views of the landscape;

4.6.10. Preservation of historic village centers; and

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- 4.6.11. Preservation of other historical and cultural resources in the community;
- 4.6.12. Conservation of the working landscape by sustaining farming and forestry and other rural resources, to maintain contiguous tracts of open farm and forest land and other rural resource lands, and to minimize land use conflicts.
- 4.7. Impacts shall be minimized to special wildlife habitat features and critical habitats, including:
 - 4.7.1. Dense, mature softwood stands (deer wintering areas);
 - 4.7.2. Stands of hard mast;
 - 4.7.3. Concentrations of native fruit/berry producing trees or shrubs;
 - 4.7.4. Active large stick nests;
 - 4.7.5. Potential raptor nest trees (mature or three-pronged branching);
 - 4.7.6. Standing dead trees (snags) of diameters eighteen inches (18") or greater;
 - 4.7.7. Fallen/decaying logs of diameters eighteen inches (18") or greater;
 - 4.7.8. Observed or documented wildlife travel corridors;
 - 4.7.9. Extensive grasslands or haylands;
 - 4.7.10. Dry shrublands;
 - 4.7.11. Sand plains;
 - 4.7.12. Pitch pine barrens;
 - 4.7.13. Caves/mines;
 - 4.7.14. Cliffs;
 - 4.7.15. Mature/overmature spruce/fir;
 - 4.7.16. Sedge meadow;
 - 4.7.17. Scrub-shrub swamp;
 - 4.7.18. Deep emergent marsh;
 - 4.7.19. Vernal pools;
 - 4.7.20. Northern bogs;
 - 4.7.21. Riparian/riverine habitats;
 - 4.7.22. Riverine cobble habitats;
 - 4.7.23. Floodplain forests;
 - 4.7.24. Lake shores;
 - 4.7.25. Northern boggy lakes/streams;
 - 4.7.26. Weedy lowland streams and ponds;
 - 4.7.27. Quiet shallows over mud and sand;
 - 4.7.28. Documented breeding areas of turtles, waterfowl, eagles, osprey, or ravens.

SECTION 5. SUBDIVISION REVIEW PROCEDURES

5.1. Requirement to File

Whenever any subdivision of land is proposed, before any contract or offer for sale, rent, condominium conveyance or lease of lots in the subdivision shall have been negotiated, before construction, land clearing or building development in such anticipated subdivision is begun, before any permit for the erection for any building in such subdivision shall be granted, and before a subdivision plan may be filed in the Merrimack County Registry of Deeds, the subdivider shall apply for and secure Planning Board approval of such subdivision in accordance with the following procedures and other provisions of these regulations.

5.1.1. The board will not consider a proposal unless the applicant or his/her agent is present. Agents of the landowner shall present written authority of their appointment.

5.1.2. The applicant may elect to engage in or to forego preapplication review through preliminary conceptual consultation or the design review phase. The preapplication review shall be separate and apart from formal consideration by the Board, and shall not be subject to the time limits of a completed application under RSA 676:4; I(c), as it may be amended from time to time.

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5.2. Preliminary Conceptual Consultation

5.2.1. An applicant may request a consultation with the Planning Board at a regular monthly meeting to discuss a proposal in conceptual form and in general terms, as described in RSA 676:4, II., as it may be amended from time to time. This phase is not mandatory, but is valuable to the applicant because it provides an opportunity early in the planning process to identify opportunities to improve the quality of the proposal and to resolve issues that might otherwise become a problem. The Preliminary Conceptual Consultation is an informal exchange directed at:

5.2.1.2. Reviewing the basic concepts of a proposal;

5.2.1.3. Reviewing the proposal with regard to the Master Plan and Land Use and Zoning Ordinance;

5.2.1.4. Explaining the state and local regulations that may apply to the proposal;

5.2.2. Such consultation shall not bind either the applicant or the Planning Board, and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

5.2.3. The Planning Board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.

5.2.4. Preliminary conceptual consultation shall be separate and apart from formal consideration under 5.4 and 5.5., below, and the time limits for acting under 5.5. shall not apply until a formal application is submitted under 5.4.

5.2.5. Such discussion may occur without the necessity of giving formal public notice as required under 5.9., below, and RSA 676:4, I(d), as it may be amended from time to time, but such discussions may occur only at formal meetings of the board.

5.3. Design Review

5.3.1. Before submitting a formal application for action by the Planning Board, the applicant may request to meet with the board for non-binding discussions beyond the conceptual and general stage, involving more specific design and engineering details of the potential application.

5.3.2. The design review phase review may proceed only after abutters have been identified and notified as required in 5.11., below, and the public notice has been given as required under RSA 676:4, I(d), as it may be amended from time to time.

5.4. Submission of Completed Application

5.4.1. A completed application shall consist of all data required in Section 6 of these regulations. The Planning Board shall reject all applications that are not properly completed. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision. A completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board.

5.4.2. Applications for hearing before the Planning Board shall be made on forms provided by the board and shall be presented to the Secretary of the Planning Board, or the board's agent, who shall sign and record the date of receipt.

5.4.3. Applications shall be filed with the Secretary or the Planning Board's agent at least fifteen (15) days prior to the meeting at which the application will be considered for acceptance.

5.4.4. At the next regular meeting of the Planning Board or within thirty (30) days from the date of delivery, for which notice can be posted as specified in 5.9.1., the Planning Board shall consider the application at a public hearing and shall determine whether to accept the application as complete. Acceptance shall be by affirmative vote of a majority of the Planning Board members present.

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5.5. Planning Board Action on Completed Application

- 5.5.1. As provided by RSA 676:4, I(c)(1), as it may be amended from time to time, upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, as it may be amended from time to time, and describe the information, procedure, or other requirement necessary for the application to be complete.
- 5.5.2. If an application is complete and accepted by the Planning Board, and all notices have been published, all abutters notified, and all fees paid, the board may hold the public hearing on the application at that same meeting at which it is accepted as complete. The application shall remain under active consideration on the Planning Board's agenda until final action is taken.
- 5.5.3. In conformance with RSA 676:4, I(c)(1), as it may be amended from time to time, and upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove the application within sixty-five (65) days, subject to extension or waiver as provided below.
- 5.5.4. Upon failure of the board to approve, conditionally approve, or disapprove the application, the selectmen shall, upon request of the applicant, immediately issue an order directing the board to act on the application within thirty (30) days. If the planning board does not act on the application within that 30-day time period, then within forty (40) days of the issuance of the order, the selectmen shall certify on the applicant's application that the plat is approved pursuant to this paragraph, unless within those forty (40) days the selectmen have identified in writing some specific subdivision regulation or provision in the Land Use and Zoning Ordinance or other ordinance with which the application does not comply. Such a certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording under RSA 674:37 and RSA 676:18, and court review under RSA 677:15, as they may be amended from time to time.
- 5.5.5. Complete applications may be approved, conditionally approved, or disapproved.
- 5.5.6. As provided by RSA 676:4, I(f), as it may be amended from time to time, the Planning Board may apply to the Board of Selectmen for an extension not to exceed an additional ninety (90) days before acting to approve or disapprove an application; or the applicant may waive the requirement for Planning Board action within the time period specified by law.
- 5.5.7. Approval of the application shall be certified by written endorsement on the plat that is signed and dated by the Chair and the Secretary of the Planning Board. If any application is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in written notice given to the Applicant within one hundred forty four (144) hours of the decision.
- 5.5.8. Whenever the Planning Board votes to approve or disapprove an application or deny a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor, shall be placed on file at the office of the Town Clerk and shall be made available for public inspection within one hundred forty four (144) hours of such vote.
- 5.5.9. An approved plan shall be recorded with the Merrimack County Registry of Deeds within ninety (90) days of approval. Any subdivision plan not filed within this time frame shall be considered void.
- 5.5.10. After the Planning Board has approved an application, it shall be the applicant's responsibility to ensure that construction does not deviate from the approved plan. Any changes to utilities, roads, lighting, setbacks, structures, or other improvements as approved shall be presented to the Planning Board for a determination by the board if the change is minor or major, and what action is warranted.

5.6. Four-Year Exemption

- 5.6.1. In accordance with RSA 674:39, as it may be amended from time to time, every plat or site plan approved by the planning board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, and zoning ordinances adopted by the town, except those regulations and ordinances which expressly protect

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public health standards, such as water quality and sewage treatment requirements, for a period of four (4) years after the date of recording; provided, however, that once substantial completion of the improvements as shown on the plat have occurred in compliance with the approved plat, or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations or zoning ordinances shall operate to affect such improvements; and further provided that:

- 5.6.1.1. Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved plat within twelve (12) months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the town at the time of commencement of such development;
- 5.6.1.2. Development remains in full compliance with the public health regulations and ordinances specified in this section; and
- 5.6.1.3. At the time of approval and recording, the plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the site of such plat.
- 5.6.1.4. As part of its approval of a plat or plan, the planning board may, with due regard to the scope and details of a particular project, specify the threshold level of work which shall constitute "active and substantial development or building" for purposes of fulfilling 5.6.1.1. of this section, or may, for good cause extend the 12-month period set forth in 5.6.1.1.

5.7. Expedited Review

- 5.7.1. The Planning Board may establish procedures for an expedited review of applications for lot line adjustments or technical subdivisions, including less detailed submission requirements for applications.

5.8. Public Hearing

- 5.8.1. Except as provided in this section, no application may be denied or approved without a public hearing on the application, to provide an opportunity for public testimony relative to the consequences of the proposed subdivision. At the hearing, any applicant, abutter, holder of conservation, preservation, or agricultural preservation restrictions, or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the subdivision regulations or the board at each hearing. Public hearings shall not be required, unless specified by the subdivision regulations, when the board is considering or acting upon disapprovals of applications based upon failure of the applicant to supply information required by the regulations, including identification of abutters or holders of conservation, preservation, or agricultural preservation restrictions; or failure to meet reasonable deadlines established by the board; or failure to pay costs of notice or other fees required by the board. A public hearing may be adjourned and reconvened until the Planning Board's next regular meeting without giving notice as specified in 5.9, below, if the Planning Board gives due notice of the time and place of the next meeting of the adjourned session prior to the adjournment of the public hearing.

5.9. Notification

- 5.9.1. Public notice of the date upon which a completed application will be formally submitted to the Planning Board, and of public hearings on the application, shall be given by posting in two or more public places, including the Danbury Town Hall and the Danbury Post Office, not less than ten (10) days (exclusive of the day of posting and the day of the meeting) prior to the date fixed for submission and consideration of the application. Public notices shall conform to the requirements of

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- RSA 676:4, I(d), as it may be amended from time to time, and to instructions provided by the Planning Board.
- 5.9.2. Personal notice of the date upon which the application will be formally submitted to the Planning Board, and of public hearings on the application, shall be made by the applicant, using certified mail, return receipt requested, not less than ten (10) days prior to the date fixed for submission of the application to the Planning Board (exclusive of the day of posting and the day of the meeting). The applicant shall send notice to all abutters, to holders of conservation, preservation, or agricultural preservation restrictions, and to any professional, including every engineer, architect, land surveyor, or soil scientist whose seal appears on any plat.
- 5.9.3. The notices of submission of the application and the public hearing/s on it may be combined if the date of the public hearing is stated in the notice, and if the notice also states that if the application is accepted as complete, it will be on the agenda of each Planning Board meeting until a final decision is made.
- 5.10. Fees
- 5.10.1. The applicant shall be responsible for all fees incurred by the processing of applications. Failure to pay such costs shall constitute valid grounds for the Planning Board to reject the application as incomplete.
- 5.10.2. Upon formal submission of the application to the Planning Board, the applicant shall pay an application fee of thirty (\$30.00) dollars for technical review and a fee of twenty five (\$25.00) dollars for each newly created lot to the Town of Danbury.
- 5.10.3. It shall also be the responsibility of the applicant to pay reasonable fees for special investigative and research studies, environmental and economic assessments, legal review of documents, administrative expenses and other matters which may be required by the Planning Board in order to make an informed decision on a particular application.
- 5.11. Site Inspections
- 5.11.1. Whenever the Planning Board deems it necessary for the consideration of an application, to visit the proposed site, the board shall arrange a time that is reasonable and convenient for the applicant and the board.
- 5.11.2. Such a site visit shall be posted as a meeting of the board pursuant to RSA 91-A, as it may be amended from time to time.
- 5.11.3. Action by the Planning Board on any application is conditioned upon the owner allowing access to the property, to the extent reasonable and necessary to properly review the application. Denial of access automatically terminates any further consideration of the proposal.
- 5.12. Concurrent and Joint Hearings
- 5.12.1. The applicant or the Planning Board may request a joint formal public hearing with one or more land use boards in conjunction with a subdivision hearing if approval from all boards is required for the same project. Each board shall have discretion whether or not to hold such joint meeting or hearing, as provided by RSA 676:2, as it may be amended from time to time.
- 5.13. Land Affected by Municipal Boundaries
- 5.13.1. As provided by RSA 674:53, as it may be amended from time to time, an owner of contiguous land which is located in more than one municipality may treat a municipal boundary line as an existing boundary between lots, tracts, sites or other divisions of land for purposes of this title unless the existing or proposed use of land or arrangement of structures in one of the municipalities requires and is dependent upon land or improvements located in the other municipality or municipalities in order to fulfill the land use ordinances or regulations of the first municipality with respect to such

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- matters as lot size, density, frontage, uses or accessory uses, set-backs or access, or in order to comply with applicable state or federal regulations.
- 5.13.2. Upon receipt of an application for a permit or approval under this title for the subdivision, development, change of use of, or erection or alteration of any structure upon any lot, tract, site or other division of land whose boundary or portion thereof is a municipal boundary line, or whose sole street access or sole maintained street access is via a private road or class IV, V, or VI highway located in an adjoining municipality, the municipality receiving the application shall inquire in writing to the appropriate administrative officials in the adjoining municipality or municipalities as to the existence of facts or regulations which would preclude or affect such subdivision, development, construction, or change of use. Response shall be made to such inquiries within the period provided by this title for approval or disapproval of the underlying application. A response which invokes an ordinance or regulation of such adjoining municipality may be appealed in that adjoining municipality in the same manner as any other administrative decision. An adjoining municipality in which is located an existing private road or class VI highway that serves as an applicant's sole means of fulfilling the street access requirements under RSA 674:41, as it may be amended from time to time, shall have the same regulatory powers under that statute with respect to that road or highway as if the proposed building or development were located within that same municipality.
- 5.13.3. An owner of contiguous land in more than one municipality may treat such contiguous land as a single lot, tract, site, or other division of land for purposes of this title, notwithstanding the municipal boundary line, provided that:
- 5.13.3.1. All uses of land, buildings, or structures shall comply with the regulations or ordinances of the municipality in which they are located.
- 5.13.3.2. When an owner has fulfilled or proposes to fulfill the requirements of one municipality, through the inclusion of land or improvements located in an adjoining municipality, such owner or the owner's successors shall not thereafter use that land or those improvements in a manner such that those requirements of the first municipality are no longer fulfilled. This paragraph may be enforced by the municipality whose requirements are to be fulfilled.
- 5.13.4. No plat or plan showing land or streets in more than one municipality in the state shall be deemed approved for purposes of this title unless it has been approved by the planning boards of all included municipalities in which the planning board has been granted authority over approval of that type of plat or plan. In addition, no plat or plan showing land whose sole street access or sole maintained street access is or is planned to be via a private road or class IV, V, or VI highway located in an adjoining municipality shall be deemed approved for purposes of this title unless it has been approved by the planning board, if any, of that adjoining municipality, provided however that the sole issue which may be addressed or regulated by the adjoining municipality shall be the adequacy of such street access, and the impact of the proposal upon it.
- 5.13.5. With respect to a proposal for the use of contiguous land in more than one municipality:
- 5.13.5.1. The fact that a lot, tract, or site straddles a municipal boundary, or that the requirements of one municipality are proposed to be fulfilled by the use of land or improvements in an adjoining municipality, shall not be the sole grounds for disapproval of any application.
- 5.13.5.2. A planning board may waive or vary its regulations with respect to access or interior roads in order to provide better harmony with the regulations of an adjoining municipality, whenever strict compliance would be unreasonable in light of the overall design of a proposal.
- 5.13.6. When local land use boards from more than one municipality have jurisdiction over a proposed use, subdivision, or development of property:
- 5.13.6.1. The applicant may petition the respective local land use boards of each such municipality to proceed with the application on a joint basis, and upon such petition, joint hearings or meetings shall be held throughout the application process. However, each board may meet separately to confer and take final action upon the application, but may not condition final

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- approval upon the receipt of information not previously requested at a joint hearing or meeting.
- 5.13.6.2. Not less than a quorum of each involved land use board shall attend the joint hearing or meeting, and the members who attend the joint hearing or meeting shall have the authority of the full board over that application. In the alternative, the full board may attend the joint hearing or meeting. Each land use board shall be responsible for rendering a decision on the subject matter within its jurisdiction.
- 5.13.6.3. The board members present at such a joint meeting or hearing shall select an interim chairperson from among such members, who shall prescribe rules of procedure, subject to alteration by the members present, but consistent with RSA 676, as it may be amended from time to time.
- 5.13.7. Whenever a subdivision plat or site plan submitted to a planning board includes land whose only maintained public highway access to the Class I and II highway system is via a Class IV or V highway maintained by another municipality in the state, the local governing body and planning board, if any, of that other municipality shall be deemed "abutters" for purposes of notice under RSA 676:4, as it may be amended from time to time. A planning board may, by regulation, set forth additional circumstances in which notice to adjoining municipalities is required. A planning board, in determining whether an application satisfies its regulations, may consider the effect of the proposal on adjoining municipalities.

SECTION 6. SUBMISSION REQUIREMENTS

A completed application shall consist of the following items, unless a written request for waiver(s) is granted by the Planning Board:

- 6.1. A completed application form, accompanied by:
- 6.1.1. Names and addresses of all abutters, taken from the town records not more than five (5) days before the day of filing;
 - 6.1.2. Names and addresses of all persons whose name and seal appears on the plat;
 - 6.1.3. Names and addresses of all holders of conservation, preservation or agricultural preservation restrictions;
 - 6.1.4. Payment to cover filing and notification fees;
 - 6.1.5. One mylar and three paper copies of the Plat, prepared according to the standards of the New Hampshire Land Surveyors Association and the Merrimack County Register of Deeds, as follows:
 - 6.1.5.1. Plats shall be at any standard scale between 1" = 20' and 1" = 400';
 - 6.1.5.2. The outside dimensions of the plat shall be 8 ½" x 11", 11" x 17", 17" x 22", or 22" x 34", or as otherwise specified by the Merrimack County Registry of Deeds;
 - 6.1.5.3. The material composition shall be suitable for electronic scanning and archiving by the Registry of Deeds;
 - 6.1.5.4. All plats shall have a minimum ½" margin on all sides;
 - 6.1.5.5. All title blocks should be located in the lower right hand corner, and shall indicate:
 - 6.1.5.5.1. Type of survey;
 - 6.1.5.5.2. Owner of record;
 - 6.1.5.5.3. Title of plan;
 - 6.1.5.5.4. Name of the town(s) in which the proposed subdivision is located;
 - 6.1.5.5.5. Tax map and lot number of the parcel(s) involved;
 - 6.1.5.5.6. Plan date and revision dates;
 - 6.1.5.6. A letter of authorization from the owner, if the applicant is not the owner.

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- 6.2. The plat shall show the following information:
- 6.2.1. Proposed subdivision name or identifying title;
 - 6.2.2. Name and address of the applicant(s) and the owner(s), if other than the applicant(s);
 - 6.2.3. North arrow, and written and graphic scale indicator;
 - 6.2.4. Date of the plan, and revision dates;
 - 6.2.5. Names, license number and seal of the surveyor or other person/s whose seal/s appears on the plan;
 - 6.2.6. Signature block for Planning Board endorsement;
 - 6.2.7. Locus plan showing general location of the total tract within the town and the zoning district(s);
 - 6.2.8. Boundary survey including bearings, horizontal distances and the location of permanent markers; curved boundary lines shall show radius, delta, and length;
 - 6.2.9. Names of all abutting subdivisions, streets, easements, building lines, parks and public places, and similar facts regarding abutting properties;
 - 6.2.10. Location of all property lines and their dimensional lot areas in square feet and acres;
 - 6.2.11. Lot numbers in accordance with the town tax map numbering system;
 - 6.2.12. Location and amount of frontage on public rights-of-way;
 - 6.2.13. Location of building setback lines;
 - 6.2.14. Location of existing and proposed buildings and other structures (note that any new buildings or structures are subject to the Danbury Building Ordinance);
 - 6.2.15. Location of all parcels of land proposed to be dedicated to public use;
 - 6.2.16. Location and description of any existing or proposed easements;
 - 6.2.17. Existing and proposed water mains, culverts, drains, sewers, and proposed connections or alternative means of providing water supply and disposal of sewage and surface drainage, including the location of septic systems (including tanks and leach fields or alternative systems);
 - 6.2.18. Existing and proposed streets with names, classification, travel surface widths, rights-of-way widths, and existing and proposed connections to existing street and road networks;
 - 6.2.19. Final road profiles, center line stationing and cross sections;
 - 6.2.20. Location and width of existing and proposed driveways;
 - 6.2.21. Water courses, ponds, standing water, rock outcrops and ledges, stone walls, existing foliage lines, open space to be preserved; and any other human-made or natural features, including archaeological features and historic structures or sites;
 - 6.2.22. Existing and proposed topographic contours based upon the USGS topographical data, with spot elevations where necessary;
 - 6.2.23. Soil and wetland delineation;
 - 6.2.24. For lots less than five acres, the location of percolation tests and test results, and outline of 4,000 square-foot septic area with any applicable setback lines;
 - 6.2.25. For lots served by existing on-site septic systems, a demonstration that site conditions and land area are adequate for installation of a replacement sewage disposal system should the original sewage disposal system malfunction or fail;
 - 6.2.26. Location of existing and proposed well/s;
 - 6.2.27. Base flood elevations and flood hazard areas, based on available FEMA maps.
- 6.3. Other information to be submitted:
- 6.3.1. Plans for stormwater management and erosion control as required by the NH Department of Environmental Services for Site Specific (Alteration of Terrain) permits, or by the US Environmental Protection Agency for NPDES permits, as applicable (see Section 7.5.);
 - 6.3.2. State subdivision approval for septic systems, when applicable; septic design approval when applicable; or certification by septic designer of adequacy of existing system;
 - 6.3.3. Site Specific (Alteration of Terrain) permit from the NH Department of Environmental Services;

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- 6.3.4. Information relating to compliance with the Comprehensive Shoreland Protection Act, RSA 483-B, as it may be amended from time to time;
- 6.3.5. State/town driveway permit(s), as applicable;
- 6.3.6. Report from the Danbury Fire Chief, Danbury Police Chief, and other relevant town boards and bodies, if requested by the Planning Board;
- 6.3.7. Approval for municipal water/sewer connections, where applicable;
- 6.3.8. Any deed restrictions; and all deeds covering land to be used for public purposes, easements and rights-of-way over property to remain in private ownership, and rights of drainage across private property, submitted in a form satisfactory to the Planning Board's counsel;
- 6.3.9. Any other state and/or federal permits, including U.S. Army Corps of Engineers permits, as applicable;
- 6.3.10. Any Section 106 historic preservation review findings pursuant to 36 CFR Part 800;
- 6.3.11. Any additional reports or studies deemed necessary by the Planning Board to make an informed decision, including but not limited to: transportation, traffic, school, fiscal, administrative, cultural resources, and environmental impact analyses. The Planning Board reserves the right to request such information after an application has been accepted as complete, as well as before its acceptance. Should the Planning Board determine that some or all of the above-described information is to be required, the applicant will be notified in writing within ten (10) days of the meeting at which the determination was made.

SECTION 7. SUBDIVISION DESIGN STANDARDS

- 7.1. Lots
 - 7.1.1. Areas set aside for parks and playgrounds to be dedicated or reserved for the common use of all property owners in a subdivision, or the public, shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.
 - 7.1.2. Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across the surface of a street or road, but shall be directed into catch basins and culverts or pipes underground using a pipe of not less than twelve inches (12") in diameter.
- 7.2. Reserve Strips
 - 7.2.1. Reserve strips of land that indicate an intent on the part of the subdivider to control access to land dedicated or to be dedicated to public use (such as a road) shall not be permitted.
- 7.3. Fire Protection
 - 7.3.1. Applications for new subdivisions shall be required to address water supply needs for fire protection, with reference to the National Fire Protection Association's *Standards on Water Supplies for Suburban and Rural Fire Fighting*.
 - 7.3.2. All proposed development, whether including the provisions of hydrants or other water supply facilities, shall be accessible to fire fighting and other emergency equipment.
- 7.4. Septic Systems and Drinking Water Supply
 - 7.4.1. In areas not currently served by public sewer systems, it shall be the responsibility of the subdivider to prove that the area of each lot is adequate to permit the installation and operation of an individual septic system.
 - 7.4.2. For lots served by on-site septic systems, the applicant must demonstrate that site conditions and land area are adequate for installation of a replacement sewage disposal system should the original sewage disposal system malfunction or fail.

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- 7.4.3. On new lots of less than five (5) acres, not less than two (2) test pits and at least one (1) percolation test shall be required within the four thousand (4,000) square foot area designated for a leach field.
- 7.4.4. In subdividing parcels with existing dwellings, the subdivider must demonstrate to the satisfaction of the Planning Board that the existing septic system is in good working order, as attested by a letter of certification from a licensed septic designer to the Planning Board.
- 7.4.5. All new water wells shall conform to the standards of the New Hampshire Department of Environmental Services.

7.5. Stormwater Management and Erosion Control

- 7.5.1. The applicant shall submit stormwater management and erosion control plans as required by the NH Department of Environmental Services for Site Specific (Alteration of Terrain) permits or by the US Environmental Protection Agency for NPDES permits.
- 7.5.2. Standard agricultural and forestry practices are exempt from this regulation.
- 7.5.3. The applicant shall bear final responsibility for the installation, construction and disposition of all stormwater and erosion control measures required by the NH Department of Environmental Services or the US Environmental Protection Agency. Site development shall not begin before the stormwater and erosion control plan is approved by the NH Department of Environmental Services.

7.6. Surveys

- 7.6.1. All surveys shall be prepared according to the minimum standards for instrument surveys adopted by the NH Land Surveyors Association for "Standard Property Surveys," as follows:
- | Condition | "1" | "2" | "3" |
|--|--------------------|--------------------|-----------------------|
| Unadjusted Linear Closure | 1:15,000 | 1:7,500 | 1:300 |
| Minimum Scale Graduation of Instrument | 20/sec. | 30/sec. | 1/minute |
| Distance Measurement | EDM/ Steel Tape | EDM/ Steel Tape | Steel Tape/ Stadia |
| Elevation Used to Determine Property Lines | 0.2' +/- | 0.5' +/- | ----- |

Condition "1" shall be required for any subdivision of less than two (2) acres that involves building of any kind, i.e., residential, commercial, industrial, or recreational.

Condition "2" is adequate for subdivisions of two (2) acres or more in a rural district.

Condition "3" is acceptable for subdivisions involving woodlots, timber lots, or large tracts being dedicated to preservation or conservation. The standards of Condition "3" may be achievable with a tape and compass survey.

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- 7.6.2. In the case of applications that involve large acreages from which one building lot is being subdivided, the Planning Board may, upon written request, waive the requirement for a complete boundary survey, when it is apparent that the remaining lot can meet existing frontage requirements and is suitable for building according to state and local laws, ordinances, and regulations.
- 7.6.3. Monumentation
 - 7.6.3.1. Monuments constructed of concrete or stone at least four inches (4") square on the top and at least thirty inches (30") long shall be set at all control corners.
 - 7.6.3.2. If the subdivision involves the construction of a roadway, all monumentation shall be in place before fifty per cent (50%) of the surety held for the construction is released. If no road construction is involved, all monumentation shall be in place prior to the signing of the plat by the Chair of the Planning Board.
 - 7.6.3.3. Pipes shall be set at all lot corners. Concrete or granite bounds shall be set at all points of curvature and all points of tangent for surveying purposes.
 - 7.6.3.4. Monuments shall be tied into a public street intersection, a U.S. Geodetic Survey (USGS) benchmark, or other recognized existing monument.

SECTION 8. DEVELOPMENTS OF REGIONAL IMPACT

- 8.1. As stated by RSA 36:55, as it may be amended from time to time, "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:
 - 8.1.1. Relative size or number of dwelling units as compared with existing stock;
 - 8.1.2. Proximity to the borders of a neighboring community;
 - 8.1.3. Transportation networks;
 - 8.1.4. Anticipated emissions such as light, noise, smoke, odors, or particles;
 - 8.1.5. Proximity to aquifers or surface waters which transcend municipal boundaries; and
 - 8.1.6. Shared facilities such as schools and solid waste disposal facilities.
- 8.2. Upon receipt of an application for development, the Planning Board shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact, as provided by RSA 36:56, as it may be amended from time to time.
- 8.3. Upon determination that a proposed development has a potential regional impact, the Planning Board shall afford the affected municipalities and their respective regional planning commissions the status of abutters as defined in RSA 672:3, as it may be amended from time to time, for the limited purpose of providing notice and giving testimony.
- 8.4. Within seventy two (72) hours of reaching a decision regarding a development of regional impact, the Planning Board shall, by certified mail, furnish the affected municipalities and their respective regional planning commissions with copies of the minutes of the meeting at which the decision was made.
- 8.5. At least fourteen (14) days prior to the public hearing on a development of regional impact, the Planning Board shall notify, by certified mail, all affected municipalities and their respective regional planning commissions of the date, time, and place of the hearing and their right to testify concerning the development. See also 5.13.7. and RSA 36:57, as it may be amended from time to time.

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- 8.6. Upon receipt of written or verbal testimony from affected municipalities or regional planning commissions, the Planning Board shall respond in writing to acknowledge that their testimony has been received and will be considered.

SECTION 9. PREVIOUSLY APPROVED SUBDIVISIONS

- 9.1. [Reserved]

SECTION 10. SPECIAL FLOOD HAZARD AREAS

- 10.1. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334, as it may be amended from time to time.
- 10.2. The board shall require that all subdivision proposals and other proposed new developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, include base flood elevation data. Sufficient evidence (construction drawings, grading and land treatment plans) shall be submitted so as to allow determination that:
- 10.2.1.all such proposals are consistent with the need to minimize flood damage;
 - 10.2.2.all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - 10.2.3.adequate drainage is provided so as to reduce exposure to flood hazards.
- 10.3. The Planning Board shall require 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 shall require discharges from the systems to be located so as to avoid impairment of them or contamination from them during flooding.
- 10.4. A statement from the surveyor certifying that the proposal is not in a designated special flood hazard area may be deemed sufficient evidence of compliance.

SECTION 11. PERFORMANCE GUARANTEES

- 11.1. As a condition of approval of a subdivision, the Planning Board may require the posting of a security in an amount sufficient to defray the costs of construction of streets, drainage facilities, water and sewer lines, other public utilities for the subdivision, erosion control, monumentation, and other improvements as may be required.
- 11.2. The amount of the security shall be based on an estimate of costs provided by the subdivider. At the discretion of the Planning Board, those cost estimates shall be reviewed and verified by a licensed qualified professional. All costs of such review shall be paid by the applicant.
- 11.3. The form and amount of the security shall be approved by the Planning Board and municipal counsel, and conditioned on completion of such improvements within a specified period from the date of the security, unless extended by the board with the subdivider's consent. The amount of the security shall include fees to cover the cost of periodic inspections.
- 11.4. The approved plat shall contain a time limit for the completion of streets and public improvements. The performance guarantee may be released in phases as portions for the secured improvements or installations

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are completed and approved by the board, in accordance with the plan approved by the board. In the case of public road construction, the board may require that the security stay in place until two full years have passed after completion of the road, in order to correct defects in construction if they become apparent to the Planning Board, the Danbury Road Agent, or the Board of Selectmen.

- 11.5. The security shall not be released until the Danbury Road Agent and the Board of Selectmen shall also have certified completion, satisfactory to the Town, of all the required improvements in accordance with the subdivision regulations and with the subdivision design and plan approved by the Planning Board.
- 11.6. When a security has been provided as a performance guarantee and the required improvements have not been installed within the terms of such guarantee, the Planning Board may thereupon declare the bond to be in default and require that all improvements be installed, regardless of the extent of the building development at the time the security is declared to be in default.
- 11.7. Nothing herein shall obligate the Town of Danbury to build or complete improvements when in the opinion of the Planning Board after consultation with the Board of Selectmen and a public hearing the Planning Board determines that such improvements are not in the public interest.

SECTION 12. REVOCATION OF PLANNING BOARD APPROVAL

- 12.1. A subdivision plat, street plat, site plan or other approval which has been filed with the appropriate recording official under RSA 674:37, as it may be amended from time to time, may not be revoked, in whole or in part, by the Planning Board, except in the following circumstances pursuant to RSA 676:4-a:
 - 12.1.1. At the request of, or by agreement with, the applicant or the applicant's successor in interest.
 - 12.1.2. When the applicant or successor in interest to the applicant has performed work, erected a structure or structures, or established a use of land, which fails to conform to the statements, plans or specifications upon which the approval was based, or has materially violated any requirement or condition of such approval.
 - 12.1.3. When the applicant or successor in interest to the applicant has failed to perform any condition of the approval within a reasonable time specified in the approval, or, if no such time is specified, within the time periods specified in RSA 674:39, as it may be amended from time to time.
 - 12.1.4. When the time periods specified in RSA 674:39, as it may be amended from time to time, have elapsed without any vesting of rights as set forth therein, and the plat, plan or other approval no longer conforms to applicable ordinances or regulations.
 - 12.1.5. When the applicant or successor in interest to the applicant has failed to provide for the continuation of adequate security as provided by RSA 674:36, III(b) and 674:44, III(d), as they may be amended from time to time, until such time as the work secured thereby has been completed.
- 12.2. Prior to recording any revocation under this section, the planning board shall give notice, as provided by RSA 676:4, I(d), as it may be amended from time to time, to the public, the applicant or the applicant's successor in interest, and all abutters and holders of conservation, preservation, or agricultural preservation restrictions. The notice shall include the board's reasons for the revocation. A hearing with notice as provided in RSA 676:4, I(d), as it may be amended from time to time, shall be held at the request of any party receiving such notice, submitted within thirty (30) days of receiving such notice, or if the planning board determines to hold a hearing.
- 12.3. A declaration of revocation, dated and endorsed in writing by the planning board, and containing reference to the recording information for the plat, plan or other approval being revoked, shall be filed for recording with the register of deeds, no sooner than thirty (30) days after written notification of the revocation is served on the applicant or the applicant's successor in interest, in person or by certified mail, or thirty (30)

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days after any public hearing, whichever is later. If only part of an approval is revoked, that portion of land subject to revocation shall be clearly identified in the declaration. The declaration shall be recorded under the same name or names as was the original approval, as well as the names of subsequent owners, if any, of the land or part thereof subject to revocation, as identified by the municipality.

- 12.4. A revocation under this section may be appealed pursuant to RSA 677:15, as it may be amended from time to time. Nothing in this section shall affect the municipality's ability, either before or after such a revocation, to pursue other remedies or penalties as set forth in RSA 676:15-17, as it may be amended from time to time.

SECTION 13. ADMINISTRATION AND ENFORCEMENT

- 13.1. These regulations shall be administered by the Planning Board. The enforcement of these regulations is vested with the Board of Selectmen.
- 13.2. Upon determination by the Planning Board that a violation of these regulations has occurred, notice of the violation shall be given to the Board of Selectmen with a recommendation for appropriate enforcement procedures.
- 13.3. A violation of these regulations shall be construed as a violation pursuant to RSA 676:17, as it may be amended from time to time.
- 13.3.1. The Board of Selectmen shall give notice and prosecute violations in accordance with the procedures set forth in RSA 676:17, as it may be amended from time to time.
- 13.3.2. Any civil penalties collected shall be used to reimburse the expenditures of costs associated with the discovery, investigation, and prosecution of the violation, with any remainder to be committed to the Town of Danbury treasury.
- 13.4. Penalties for Transferring Lots in Unapproved Subdivisions
Pursuant to RSA 676:16, as it may be amended from time to time, any owner, or agent of the owner, of any land located within a subdivision in the Town of Danbury who transfers or sells any land before a plat of the subdivision has been approved by the Planning Board and filed with the appropriate recording official under RSA 674:35, II, as it may be amended from time to time, shall forfeit and pay a civil penalty of one thousand dollars (\$1,000) for each lot or parcel so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The Town of Danbury may enjoin a transfer or sale which violates the provisions of this section and may recover the penalty imposed by civil action. In any action to recover a penalty, the prevailing party may recover reasonable court costs and attorney's fees as may be ordered by the court.
- 13.5. Road Liability Disclaimer Statement
The Town of Danbury neither assumes responsibility for maintenance nor liability for damages resulting from the use of any Class VI or Private Road, shown on any final plat as the access to the property.
- 13.6. Waivers
In extraordinary cases, where strict conformity would cause undue hardship or injustice to the subdivider, the requirements of these regulations may be waived or modified by the Planning Board when, in the opinion of a majority of the board, specific circumstances surrounding a proposed subdivision, or the condition of the land in such subdivision, indicate that such a modification will properly carry out the purpose and intent of the Danbury Master Plan and these regulations, provided that the spirit of the regulations and the public convenience and welfare will not be adversely affected.

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SECTION 14. APPEALS

- 14.1. Any person aggrieved by a decision of the Planning Board concerning a plat or subdivision may appeal said decision to the Superior Court pursuant to RSA 677:15, as it may be amended from time to time, except when a disapproval by the Planning Board is based upon non-compliance with the Danbury Land Use and Zoning Ordinance, in which case an appeal can be taken to the Board of Adjustment as provided by Articles 10 and 18 of the Land Use and Zoning Ordinance, and RSA 677, as it may be amended from time to time.

SECTION 15. VALIDITY

- 15.1. The invalidity of any provision of these regulations shall not affect the validity or enforceability of any other of its provisions.
- 15.2. Repeal or invalidation of these regulations or any portion of them shall not abrogate or annul any lawful approval, permit, easement or covenant hereunder.
- 15.3. The provisions of these regulations shall be the minimum regulations applicable to subdivision in Danbury. If any provision of these regulations conflicts with any other provision of it, or with any ordinance or regulation adopted by the Town, or with any applicable state or federal law or regulation, the provision which establishes the higher standard shall take precedence. However, nothing in these regulations shall require disturbance to, alteration of, or interference with historic or prehistoric sites or architectural or archaeological remains.
- 15.4. Unless otherwise stated, or unless otherwise required by the context, any reference to a statute, law, regulation or code in this ordinance shall be deemed to include any future amendments made to such statute, law, regulation or code.

SECTION 16. DEFINITIONS

- 16.1. Definitions as used in these regulations shall be identical to those contained in Article 20 of the Danbury Land Use and Zoning Ordinance, and the Cluster Residential Development Amendments adopted March 11, 2003. Additional definitions shall be adopted as amendments to these regulations following the procedures for adoption specified in Section 3 of these regulations.

FORMAL PRESENTATION AND DISCUSSION AT PUBLIC HEARINGS:

Tuesday, April 22, 2003, continued through Tuesday, July 22, 2003.

ADOPTED: JULY 22, 2003,

on motion of Phyllis Taylor, seconded by Albert Epperly,

voted in the affirmative and certified by

Albert Epperly, Gary Donoghue, Phyllis Taylor, and Linda Wilson.