

DANBURY SITE PLAN REVIEW REGULATIONS
TOWN OF DANBURY, NEW HAMPSHIRE

*As Adopted by the Danbury Planning Board at a Public Hearing on November 23, 2004
Effective December 14, 2004*

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 12, 2002 (Land Use and Zoning Ordinance), and in accordance with the provisions of New Hampshire Revised Statutes Annotated Chapter 674:43, 674:44, and 675:6, as they may be amended from time to time, the Danbury Planning Board adopts the following site plan review regulations.
- 1.2. In conformance with RSA 674:43, I., as it may be amended from time to time, these site plan review regulations govern the development or change or expansion of use of tracts for non-residential uses or multi-family dwelling units (meaning more than two units, whether or not the development includes a subdivision or resubdivision of the site) in the Town of Danbury, and are to be hereinafter known and cited as the Danbury Site Plan Review Regulations.
- 1.3. Pursuant to RSA 674:43, as it may be amended from time to time, the Town Clerk shall file with the Merrimack County Register of Deeds a certificate of notice showing that the Danbury Planning Board has been authorized to adopt site plan review regulations, giving the date of such authorization, which was conferred by Article 10. of the Danbury Land Use and Zoning Ordinance, adopted March 12, 2002.

SECTION 2. PURPOSE AND APPLICABILITY

- 2.1. The purpose of the Site Plan Review process 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 and water resources, the conservation of archaeological resources, the encouragement and promotion of historic preservation and sustainable 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 protection of the health, safety, convenience and welfare of town residents and visitors;
 - 2.1.2. Promote balanced growth;
 - 2.1.3. Promote the timing of development to prevent premature and uncoordinated development of land without the adequate provision of public services and facilities;
 - 2.1.4. Ensure sound site utilization;
 - 2.1.5. Avoid development which may result in negative environmental impacts;
 - 2.1.6. Guide the character of development;
 - 2.1.7. Protect taxpayers from future costs of correcting unhealthy and over-crowded developments;
 - 2.1.8. Set standards for infrastructure, including but not limited to:
 - 2.1.8.1. roads and streets
 - 2.1.8.2. water supplies
 - 2.1.8.3. septic and drainage systems
 - 2.1.8.4. fire and hazard protection
 - 2.1.8.5. lighting.
- 2.2. These regulations apply to Planning Board review and approval or disapproval of all site plans as defined by RSA 674:43,I., as it may be amended from time to time.
- 2.3. The site plan review process shall not relieve the developer or his/her agent from compliance with the Land Use and Zoning Ordinance, the Subdivision Regulations, or any other ordinances that pertain to the proposed development. No site plan shall be approved until it complies in all respects with any and all pertinent ordinances and regulations.

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- 2.4. 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.

SECTION 4. GENERAL REQUIREMENTS

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

- 4.1. Scope of Review
Whenever any development, or change or expansion of use of a site that is subject to these regulations is proposed, or whenever any changes are proposed that differ from an existing site plan previously approved by the Planning Board, and before any construction, land clearing, building development or alteration at the site is begun, and before any permit for the erection of any building or authorization for development on that site shall be granted, the owner of the property and/or his/her authorized agent shall apply for and secure from the Planning Board its approval of such proposed site development, in accordance with these Site Plan Review regulations.
- 4.1.1. The Planning Board shall have the responsibility for making the final decision as to the necessity of Site Plan Review. Where there is any doubt as to whether or not a project requires Site Plan Review, the affected party shall request a determination from the Planning Board.
- 4.1.2. Actions and properties that are subject to Site Plan Review (***NOT including single family or duplex housing, which are exempt***):
- 4.1.2.1. New construction of non-residential or multi-family development;
- 4.1.2.2. A change of use category, e.g., from residential to commercial, or from single-family to multi-family;
- 4.1.2.3. External modifications or construction, including parking lots;
- 4.1.2.4. The expansion of a building or intensification of use that would result in a significant change in traffic volume or patterns in the area, or noise, parking, lighting, or other such factors;
- 4.1.2.5. Conversion of seasonal/transient dwelling units into year-round occupancy;
- 4.1.2.6. A property that has never received Site Plan Review from the Planning Board for previous non-residential or multi-family use.
- 4.2. Activities that are not subject to Site Plan Review:
- 4.2.1. Proposals that involve no change in use or level of activity;
- 4.2.2. Internal building modifications to a non-residential use that do not affect the scale or impact of the existing use;
- 4.2.3. A reuse of a premise for which a Site Plan Review has already been conducted, provided that the new use is not substantially different in type or impact;
- 4.2.4. Single family or duplex housing, including new construction, rehabilitation, and restoration;
- 4.2.5. Home occupations (however, cottage industries – a more intensive and/or extensive use than home occupations, which require a special exception from the Zoning Board of Adjustment – will need site plan review if the Planning Board requires it).

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- 4.3. Character of Land
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 site plans, nor for such other uses as may increase danger to life or property, or aggravate the flood hazard.
- 4.4. Premature Subdivision
Scattered or premature subdivision or development 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.
- 4.5. Preservation of Existing Features
Suitable means shall be used to preserve and protect significant existing features such as large, unusual, shade and ornamental trees, vegetated buffers, scenic points, stone walls, cellar holes, rock outcroppings, shallow to bedrock lands, steeply sloping lands, water bodies, wetlands, other natural areas, significant wildlife habitat, historic buildings and structures and places, and archaeological sites. These features shall be shown on the site plan (refer to 6.2.21.), and shall not be removed without the written approval of the Planning Board. Where possible, boundary lines shall follow stone walls. In considering a proposed site plan, the Planning Board may make recommendations to the developer relating to earth movement and retention of natural cover in order to preserve the natural and scenic beauty of Danbury and its environment.
- 4.6. Impacts shall be minimized to special wildlife habitat features and critical habitats, in conformance with Section 4 of the Danbury Subdivision Regulations.

SECTION 5. SITE PLAN REVIEW PROCEDURES

- 5.1. Requirement to File
The application procedures that are delineated in the Danbury Land Use and Zoning Ordinance and the Danbury Subdivision Regulations shall also apply to the Site Plan Review procedures. As provided in these ordinances and 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.
- 5.2. Expedited Review
The Planning Board may provide for an expedited review of minor site plans. Under the expedited review procedures, the board in its discretion may waive or allow less detail for certain submission requirements, including the filing of a formal plan, prepared by a licensed professional surveyor, at the Merrimack County Registry of Deeds. If the requirement for filing a plan at the Registry of Deeds is waived, a notice of the site plan approval and any conditions or agreements shall be filed with the Registry of Deeds instead. To determine whether an application qualifies as a minor site plan, the board will use criteria that include but are not limited to:
- 5.2.1. When there is no new construction;
- 5.2.2. When new construction is not greater than 2,500 (two thousand five hundred) square feet in area;
- 5.2.3. When site impacts are not expected to be significant, in terms of traffic, noise, parking, lighting, or environmental or historical/archaeological effects.

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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. A list of 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. A list of names and addresses of all persons whose name and seal appears on the plat; (including, but not limited to, surveyors, engineers, and architects);
 - 6.1.3. A list of 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 in conformance with the standards of the New Hampshire Land Surveyors Association and the Merrimack County Register of Deeds, as delineated in the Danbury Subdivision Regulations, and 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:
 - 6.1.5.6. Type of survey;
 - 6.1.5.7. Owner of record;
 - 6.1.5.8. Title of plan;
 - 6.1.5.9. Name of the town(s) in which the proposed site plan is located;
 - 6.1.5.10. Tax map and lot number of the parcel(s) involved;
 - 6.1.5.11. Plan date and revision dates;
 - 6.1.5.12. A letter of authorization from the owner, if the applicant is not the owner.
 - 6.1.5.13. NOTE: Plans for minor projects do NOT have to be prepared by a professional surveyor, but they must conform to state, county and local standards as specified above.
- 6.2. The plat shall show the following information; note that most of the items 6.2.1. through 6.2.23 are the same as the submission requirements for subdivision approval:
 - 6.2.1. Proposed site plan or development 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; for minor projects, a copy of the town tax map clearly showing the parcel will be sufficient;
 - 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; for minor projects, a copy of the tax map will be sufficient;
 - 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;

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- 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, and existing and proposed connections to existing street and road networks, and (not required for minor projects) classification, travel surface widths, rights-of-way widths;
 - 6.2.19. Final road profiles, center line stationing and cross sections (not required for minor projects);
 - 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 (not required for minor projects);
 - 6.2.23. Soil and wetland delineation (not required for minor projects);
 - 6.2.24. Location of existing and proposed well/s;
 - 6.2.25. Base flood elevations and flood hazard areas, based on available FEMA maps;
 - 6.2.26. Physical features and uses of abutting land within two hundred (200) feet of the site;
 - 6.2.27. The shape, size, height, location, and use of existing and proposed structures located on the site and those which are existing within two hundred (200) feet of the site, and photographs of existing structures;
 - 6.2.28. Location of existing and proposed sidewalks; both pedestrian and vehicular circulation (bicycles, snow machines, ATVs, and other motorized or non-motorized vehicles, etc.) shall be shown;
 - 6.2.29. Identification of access to the site, sight distance at the access point(s), curb cuts and proposed changes (if any) to existing streets or roads; and copies of any driveway permit(s) from the State of New Hampshire and/or the Town of Danbury;
 - 6.2.30. Location, typical dimensions, and total number of parking spaces; loading spaces and other similar facilities associated with the use of the parcel;
 - 6.2.31. A landscape plan, indicating existing and proposed landscaping and screening; for major projects, additional information about the number, location, types, and size of new and existing landscape materials may be requested by the Planning Board;
 - 6.2.32. Location, type and nature of all existing and proposed exterior lighting and signage;
 - 6.2.33. Location and distance to any fire hydrants and/or fire ponds.
- 6.3. Other information to be submitted, if applicable and/or if requested by the Planning Board:
- 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. Approved septic design and/or certification by septic designer of adequacy of existing system for the intended use;
 - 6.3.3. Information relating to compliance with the Comprehensive Shoreland Protection Act, RSA 483-B, as it may be amended from time to time;
 - 6.3.4. Report from the Danbury Fire Chief, Danbury Police Chief, and other relevant town boards and bodies, if requested by the Planning Board;
 - 6.3.5. Approval for municipal water/sewer connections, where applicable;
 - 6.3.6. Any deed restrictions; and all deeds covering land to be used for public purposes, easements and rights-of-way over property that is to remain in private ownership, and rights of drainage across private property, submitted in a form satisfactory to the Planning Board's counsel;
 - 6.3.7. Any other state and/or federal permits, including U.S. Army Corps of Engineers permits, as applicable;
 - 6.3.8. Any Section 106 historic preservation review findings pursuant to 36 CFR Part 800;

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- 6.3.9. 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.
- 6.3.10. Supplemental information may be required by the Planning Board to update the final plat to reflect "as built" conditions and details. The "as built" plan shall show any easements and dedicated roadways. A performance guarantee may be required as described in Section 11 of these regulations.
- 6.3.11. Additional or supplemental information required by the Planning Board shall be provided at the applicant's expense. In accordance with RSA 674:44,V., as it may be amended from time to time, the Planning Board may hire independent professionals at the applicant's expense for special investigation and the review of documents and other matters which may be required by particular applications. Refer also to Sections 10.4.3. and 10.4.4. of the Danbury Land Use and Zoning Ordinance.

SECTION 7. DESIGN STANDARDS

- 7.1. Design of Development
 - 7.1.1. Refer to Section 4., General Requirements;
 - 7.1.2. Landscape treatment shall consist of natural, undisturbed vegetation or features, or new installations of ground cover, shrubs, or trees where appropriate. To the extent practicable, vegetation (including trees) shall be selected from native species. No plant materials on the New Hampshire lists of invasive species may be used for landscaping;
 - 7.1.3. Grading and filling shall be conducted to minimize the alteration of surface and subsurface drainage to, toward or across abutting properties, both private and public, including public ways, unless the written consent of the abutting landowner/s is obtained;
 - 7.1.4. Signage and outdoor advertising shall be consistent with Article 12 of the Danbury Land Use and Zoning Ordinance;
 - 7.1.5. Illumination shall be consistent with Article 16 of the Danbury Land Use and Zoning Ordinance;
 - 7.1.6. Pedestrian Safety
 - 7.1.6.1. Sidewalks shall be provided for pedestrian traffic so that there are connections between the main entrances of businesses, housing or industrial establishments, parking areas, and other constructed site features. In the event that pedestrian visitors, customers, or employees are reasonably anticipated at the site, provisions shall be made for sidewalks linking the public way to the main entrance/s. Design and materials of sidewalks shall be compatible with the character of the site and its environment;
 - 7.1.6.2. In its discretion, the Planning Board may also require sidewalks, paths, or trails along road or stream frontage, or to connect with existing and projected trail networks.
 - 7.1.7. Off-street Parking and Loading Requirements
 - 7.1.7.1. Sufficient off-street loading and/or unloading space must be provided, including off-street areas for maneuvering anticipated trucks or other vehicles. Maneuvers for parking and/or loading or unloading must not take place in a public street or road;
 - 7.1.7.2. Access, parking and loading areas are to be constructed to provide adequate snow storage; and to minimize dust, erosion, and runoff conditions that would have a detrimental effect on abutting or neighboring properties, both public and private;
 - 7.1.7.3. The Planning Board may allow the use of permeable pavement, in its discretion, to reduce the need for installation of draining facilities to accommodate runoff; however, the board may also require that access, parking and loading areas be conventionally paved;
 - 7.1.7.4. For site plans of more than one use, the aggregate number of parking spaces shall be apportioned based on the various uses, with the respective areas designated on the plan;
 - 7.1.7.5. Where possible, parking shall be located to the side or rear of primary structures;

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7.1.7.6. The Planning Board may require the **use** of shared driveways and access points to the public way, and may also require that driveways, parking, and pedestrian access be designed to interconnect with adjacent properties in multi-family residential, commercial, and industrial uses.

7.1.8. Screening

Appropriate screening treatments and/or buffers are to be maintained or installed to provide privacy and noise and dust reduction to residential areas abutting non-residential sites, as follows:

7.1.8.1. Buffer strips are to be maintained between proposed uses and residential uses. Buffer strips between non-residential and residential uses shall contain vegetation that will screen non-residential uses from the sight of the residential uses all twelve months of the year. Buffer strips shall be a minimum of ten (10) feet in width, with actual width **to** be determined by the Planning Board depending on site features and density of existing and proposed development in the area;

7.1.8.2. Storage areas and litter or garbage or recycling areas shall be securely fenced or screened from on-site or adjoining parking and from neighboring properties;

7.1.8.3. Screening treatments may use fencing or vegetation, subject to approval by the Planning Board;

7.1.9. Street Access / Traffic Patterns

Access to public streets, roads, and ways shall meet the requirements of the New Hampshire Department of Transportation and/or the Town of Danbury. All new street/road construction shall conform to the road standards of the Town of Danbury. Access and internal traffic patterns shall accommodate the proposed use/s, and shall provide easy, unimpeded, and safe access for emergency vehicles.

7.1.10. Underground Fuel Storage Tanks

Underground fuel storage tanks shall comply with the standards of the New Hampshire Department of Environmental Services as set forth in the department's administrative rules.

7.1.11. Noise

All submissions for site plan review will be evaluated in regard to the amount of noise produced and its potential effect on the surrounding environment. In lieu of any other regulations governing noise in the Town of Danbury, the current guidelines of the New Hampshire Office of Energy and Planning (NH OEP) shall apply; as of June 2004, these are:

7.1.11.1. Noise levels [measured in decibels: dBA]:

<u>Uses</u>	<u>Daytime (Max)</u>	<u>Nighttime (Max)</u>
Residential Uses	60	50
Commercial Uses	65	55
Industrial Uses	70	65

Special Circumstances (see 7.1.11.5., below)

7.1.11.2. Daytime hours shall be between 7:00 a.m. and 8:00 p.m.

7.1.11.3. Nighttime hours shall be between 8:00 p.m. and 7:00 a.m.

7.1.11.4. Measurements shall be made at the property line, at least four (4) feet from ground level, using a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI).

7.1.11.5. Noise levels may increase to 75 dBA during daytime hours only during active construction authorized by a valid building permit.

7.1.12. Pollution Control

The applicant shall employ the best practicable management standards and technology reasonably available at the time, in order to avoid undesirable and preventable elements of pollution such as noise, vibration, fire, smoke, soot, dust, particulate, noxious odors, toxins, waste material, litter, unsanitary or explosive or hazardous conditions, or other emissions or any other discharges into the environment which might prove harmful or a nuisance to persons, animals, structures, groundwater, surface waters, or adjacent properties, or to endanger health, safety, or property values, or to be offensive to abutters or to the public.

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- 7.1.13. Compliance with the Americans with Disabilities Act
Where required by law, all new construction, including buildings, structures, and site development, shall meet the requirements of the Americans with Disabilities Act (42 U.S.C. 12181) and implementing regulations at 28 CFR Part 36.
- 7.1.14. Underground Utilities
The Danbury Planning Board encourages applicants to place new utilities and transmission lines underground, subject to applicable code requirements and site conditions.

SECTION 8. TRANSPORTATION DESIGN AND CONSTRUCTION STANDARDS (Reserved)

SECTION 9. DEVELOPMENTS OF REGIONAL IMPACT

- 9.1. 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; assessments of regional impact shall be consistent with Section 8 of the Danbury Subdivision Regulations.

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. Refer to Article 15 of the Danbury Land Use and Zoning Ordinance.

SECTION 11. PERFORMANCE GUARANTEES

- 11.1. As a condition of approval of a site plan review, 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 development, 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 applicant. 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 applicant's consent. The amount of the security shall include fees to cover the cost of periodic inspections.
- 11.4. The approved site plan 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 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 a percentage of 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 Planning Board, 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 site plan review regulations (and subdivision regulations, if applicable), and with the development design and plan approved by the Planning Board.

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- 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) 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.

DANBURY SITE PLAN REVIEW REGULATIONS
TOWN OF DANBURY, NEW HAMPSHIRE

As Adopted by the Danbury Planning Board at a Public Hearing on November 23, 2004; Effective December 14, 2004

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. The Board of Selectmen shall not issue any building permit for construction that requires site plan approval unless or until the Planning Board has approved the site plan in conformance with these site plan review regulations.
- 13.3. 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.
- 13.4. 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.
- 13.4.1. 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.
- 13.4.2. 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.
- 13.5. 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 site plan, or the condition of the land indicate that such a waiver or 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.

SECTION 14. APPEALS

- 14.1. Any person aggrieved by a decision of the Planning Board concerning a plat or site plan review 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.

DANBURY SITE PLAN REVIEW REGULATIONS
TOWN OF DANBURY, NEW HAMPSHIRE

As Adopted by the Danbury Planning Board at a Public Hearing on November 23, 2004; Effective December 14, 2004

- 15.3. The provisions of these regulations shall be the minimum regulations applicable to site plan review 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.

OOOOO

FORMAL PRESENTATION AND DISCUSSION AT PUBLIC HEARINGS:

June 22, 2004, continued through November 23, 2004.

ADOPTED: November 23, 2004,

on motion of Debra Phelps, seconded by John Taylor, voted in the affirmative and certified by Gary Donoghue, Debra Phelps, John Taylor, Phyllis Taylor, and Linda Wilson.

EFFECTIVE: December 14, 2004

*Upon filing with the Town Clerk
pursuant to RSA 675:6, III.*