

ARTICLE 1 - ENACTMENT AND APPLICATION

Section 100.1 - Title

This local law shall be known and may be cited as the Town of DeRuyter Land Use Law.

Section 100.2 - Enacting Clause

The Town Board of the Town of DeRuyter in the County of Madison under the authority of Article 16 of the Town Law and Section 10 of the Municipal Home Rule Law of New York State hereby ordains, enacts and publishes as follows:

Section 100.3 - Purposes of the Land Use Law

The purposes of this land use law and the land use districts and regulations herein set forth and as outlined on the land use map are to provide for the orderly growth of the Town and its hamlets; to encourage the most appropriate use of land; to protect and conserve the value of property; to prevent the overcrowding of land; to protect our water and recreational resources; to protect our farmland; to promote the health, safety and general welfare of the public; and to preserve the character of the Town and its hamlets.

Section 100.4 - Application of Regulations

Except for existing uses and other facilities as herein provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, extended, or put in place unless in conformity with the regulations herein specified for the district in which it is located; and
- B. No building shall hereafter be erected, altered, or put in place:
  - 1. to exceed the height;
  - 2. to accommodate or house a greater number of families;
  - 3. to occupy a greater percentage of lot, area, or;
  - 4. to have narrower or smaller bordering yards than specified for the district in which such building is located. (See Table I, p. 3A); and
- C. No part of a yard or other open space around any building required in conformity with the provisions of this law shall be included as part of a yard or other open space similarly required for another building.

ARTICLE 2 - DISTRICTS AND BOUNDARIES

Section 201. - Establishment of Districts

The Town of DeRuyter because of its current nature is hereby classified into two districts:

- AR - Agricultural/Residential/Commercial District
- LW - Lake Watershed District.

It is recognized that this division may not always be appropriate; procedures for modifying or adding districts may be found in Section 609.

Section 202. - Land Use Map (Page 3)

The land use districts are shown, defined and bounded on the map entitled "Town of DeRuyter Land Use Map," which with all explanatory matter thereon is hereby made a part of this law. The map shall be on file in the Town Office.

Section 203. - Land Use Schedule (Pages 4 and 5)

The land use schedule shows for all districts the permitted minimum sizes of the lots, sides, and bordering yards, and maximum building heights. The Town Board may exempt certain public facilities from these requirements.

**NOTES FOR LAND USE SCHEDULE**

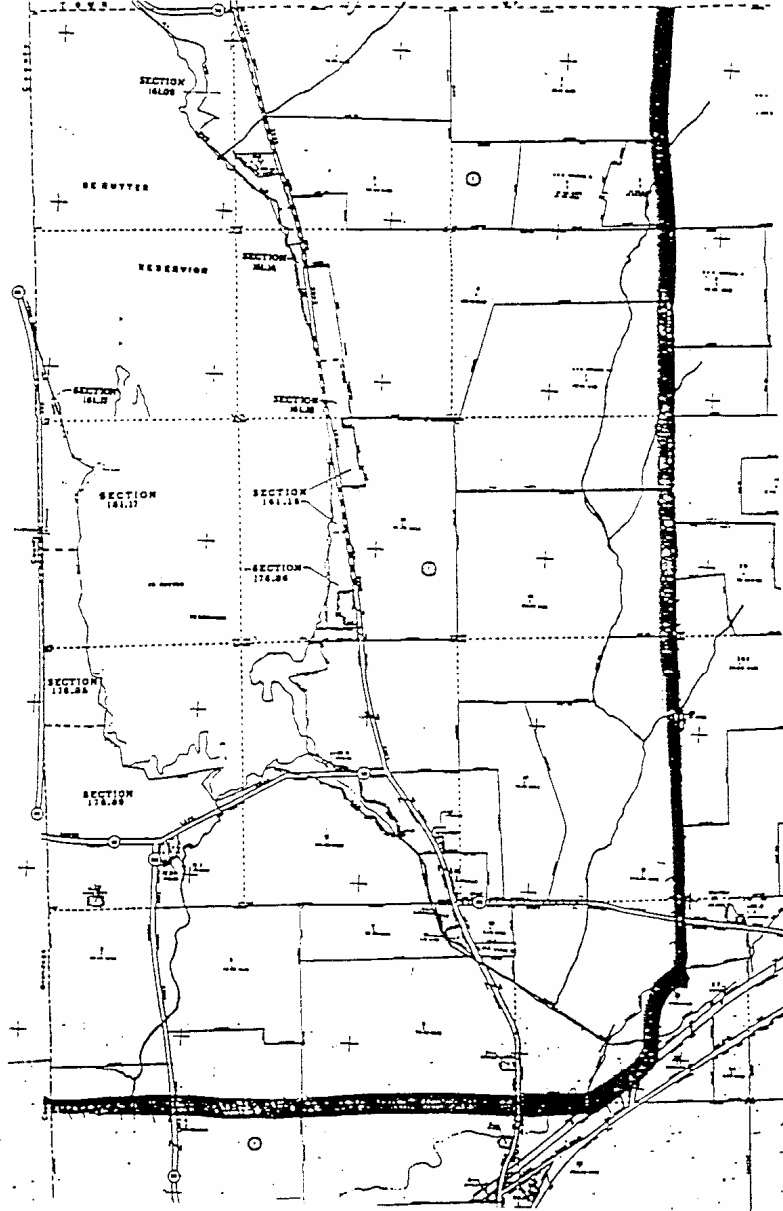
- A. For those portions of any lot that adjoin a public roadway, or pre-existing private road in the Lake Watershed District, the following dimensions shall be added to those Minimum Dimensions for front yards set forth in Table 1, Land Use Schedule, and measurements shall be taken from the center of the road pavement, if unpaved.

Road Type	Additional Distance
Pre-Existing, Private, Lakeside Road	Ignore Schedule, Use Total Min. Setback of 30 ft.
State Highway	Add 40 feet Total = 90 ft.
All Other Roads	Add 25 feet Total = 75 feet

- B. Requires a special use permit issued by the Planning Board.

Land Use Map

Only northwestern part of Town with Lake Watershed District boundaries shown. Remainder of Town to south and east of boundary line is located in Agricultural-Residential-Commercial District, save for Village of DeRuyter which is not subject to these regulations.)



Land Use Schedule

AGRICULTURAL, RESIDENTIAL DISTRICT RD	MINIMUM LOT AREA	MINIMUM LOT DEPTH FT.		MINIMUM SETBACK			MAXIMUM BUILDING HEIGHT FT.	NOTES
		FRONT FT.		FRONT FT.	SIDE FT.	REAR FT.		
SINGLE FAMILY UNIT WITH PUBLIC WATER	20,000 SQ. FT.	100	125	50	20	20	36	a
WITHOUT PUBLIC WATER	40,000 SQ. FT.	150	125	50	25	20	36	a
TWO FAMILY UNIT WITH PUBLIC WATER	30,000 SQ. FT.	150	125	50	25	20	36	a
WITHOUT PUBLIC WATER	60,000 SQ. FT.	150	125	50	25	20	36	a
MULTI FAMILY UNIT WITH PUBLIC WATER	20,000 SQ. FT. First Unit; 10,000 sq. ft. Each additional unit	150	125	50	25	20	36	a,b
WITHOUT PUBLIC WATER	40,000 SQ. FT. First Unit; 20,000 sq. ft. Each additional unit	150	125	50	25	20	36	a,b
MOBILE DWELLING BUSINESS, COMMERCIAL PROFESSIONAL FARM FARM BUILDINGS	SAME REQUIREMENTS AS SINGLE FAMILY UNITS						36	a
	40,000 SQ. FT. 5 ACRES	150 150	125 125	50	25	20	36	a,b
	40,000 SQ. FT. if On separate lot	150	125	50	25	20		a
CLUSTER DEVELOPMENT MOBILE DWELLING PARK ALL OTHER ALLOWED USES	10 ACRE MINIMUM 5 ACRE MINIMUM 40,000 SQ. FT.	150 150	125 125	SET BY PLANNING BOARD			36 36 36	a a,b a,b

\*CORNER LOTS ARE CONSIDERED TO HAVE TWO FRONT YARDS, ALONG THE ROADWAYS, AND TWO SIDE YARDS

Land Use Schedule

LAKE WATERSHED PROTECTION DISTRICT	MINIMUM LOT AREA	MINIMUM LOT		MINIMUM SETBACK			MAXIMUM BUILDING HEIGHT FT.	NOTES	
		FRONT FT.	DEPTH FT.	FRONT FT.	SIDE FT.	REAR FT.			
SINGLE FAMILY UNIT WITH LAKE FRONTAGE	1 ACRE **	150	125	50	20	20	36	a	
TWO FAMILY UNIT	1 ACRE ** 1.5 ACRES **	100 150	125 125	50 50	20 25	20 20	36 36	a a,b	
MULTI FAMILY UNIT	1 ACRE First Unit ** .5 acre each add.	150	125	50	25	20	36	a,b	
MOBILE DWELLING UNIT FARMS	1 ACRE **	150	125	50	20	20	36	a	
FARM BUILDINGS	5 ACRES **	150	125	50	25	20		a	
BUSINESS, COMMERCIAL PROFESSIONAL	1 ACRE **	150	125	50	25	20	36	a,b	
CLUSTER DEVELOPMENT	10 ACRE MINIMUM	SET BY PLANNING BOARD						36	a
ALL OTHER ALLOWED USES	40,000 SQ. FT.	150	125	50	25	20	36	a,b	

\*\*WITH APPROVED SEPTIC SYSTEM

- CORNER LOTS ARE CONSIDERED TO HAVE TWO FRONT YARDS, ALONG THE ROADWAYS, AND TWO SIDE YARDS
- LAKE LOTS ARE CONSIDERED TO HAVE TWO OR MORE FRONT YARDS, ALONG THE TWO ROADWAYS AND/OR THE LAKE, AND TWO OR FEWER SIDE YARDS.
- THE FRONT YARD ON THE LAKE LOTS IS CONSIDERED TO BE THE MEAN HIGHWATER LINE AS MEASURED AT THE SPILLWAY CREST.

## ARTICLE 3 - LAND USE DISTRICTS

At present (1991), the entire Town of DeRuyter is within the Agricultural, Residential, Commercial (ARC) District or the Lake Watershed District (LWD). In order to bring any other district into being, the Town Board, the Planning Board, and/or the applicant must follow the Procedures for Amendments outlined in Section 609.2.

Section 301. - Agricultural-Residential-Commercial District: AR

The purpose of this district is to preserve farm lands and adjoining settlements as long as possible, to provide for separate residences of all kinds, and to invite all other uses, under certain controls, in order to assure the livelihood and enjoyment of those who live there.

Section 301.1 - Principal Uses Permitted

- A. One-family dwellings built on a foundation.
- B. Two-family dwellings built on a foundation.
- C. Mobile homes.
- D. Farm and farm buildings for related agricultural activities.
- E. On a farm (with a minimum of five acres), three one-family dwellings or mobile dwellings for use by the farm owners, immediate family members or employees actively involved in the farm operation so long as each dwelling is sited and constructed to meet the use and area requirements and other regulations which would otherwise apply to a single-family unit.
- F. Churches and other similar places of worship, parish houses, convents, and similar facilities of religious groups.
- G. Public recreation areas including parks, playgrounds, and play fields.
- H. Public buildings, libraries, museums, public schools.

Section 301.2 - Accessory Uses Permitted

- A. Private garages.
- B. Customary accessory structures (tool houses, playhouses, greenhouses) not to exceed 150 square feet and not to be less than 10 feet from the rear and side line of the lot.
- C. Animal shelters for domestic pets properly maintained.
- D. Other structures such as private swimming pools and fireplaces.
- E. Customary farm buildings located on the same parcel as the principal use.
- F. Off-street parking.

- G. Roadside stands for the sale of seasonal farm produce or homemade items. Such stands are to be set back at least 30 feet from the road right-of-way, provide safe off-street parking for at least three motor vehicles, and include a driveway that permits vehicles to enter the road without backing onto it.
- H. Customary home businesses or professional offices conducted by the residents.
- I. Non-commercial, outdoor recreation.
- J. Accessory buildings necessary to the principal use and which do not include any activity commonly conducted as a separate business.
- K. The keeping of animals on non-farm lots for 4-H and similarly organized youth groups (approval is conditional upon a letter from the project supervisor certifying participation in the 4-H or other organizations' program). On farms, animals are allowed as part of the principal use with no letter required.

Section 301.3 - Uses Requiring a Special Permit

- A. Multi-family housing.
- B. Mobile Dwelling Parks.
- C. Business, commercial, and professional establishments.
- D. Commercial outdoor recreation such as ski runs, snowmobile parks, miniature golf courses, driving ranges and race tracks, parks, playgrounds, play fields or any such facility.
- E. Development of special flood hazard areas designated by the Federal government, swamps, wetlands, streams, lakes, steep slopes.
- F. Hospitals, nursing homes, colleges, and private schools including day care centers.
- G. Public utility uses.
- H. On a farm (with a minimum of 5 acres), more than three one-family dwellings or mobile dwellings for use by the farm owners or employees actively involved in the farm operation.
- I. Uses of a similar nature upon review and approval by the Planning Board.

Section 302. - Lake Watershed District

The purpose of this district is to provide opportunities for attractive housing in the rural setting of the DeRuyter Lake Watershed; to promote and protect the public health, welfare, and safety; to protect potable water supplies; to provide for the protection, preservation, and proper use of the lake watercourse; to protect economic property values, aesthetic and recreational values, and other natural resource values within the watershed.

Section 302.1 - Principal Uses Permitted

- A. One-family dwellings built on a foundation.
- B. Farms and farm buildings for related agricultural activities.
- C. On a farm, (with a minimum of five acres), three one-family dwellings or mobile dwellings for use by the farm owners, immediate family members or employees actively involved in the farm operation so long as each dwelling is sited and constructed to meet the use and area requirements and other regulations which would otherwise apply to a single-family unit.

Section 302.2 - Accessory Uses Permitted

- A. Private garages.
- B. For lots with no lake frontage: customary accessory structures (tool houses, playhouses, greenhouses) not to exceed 150 square feet and must be at least 10 feet from the rear and side line of the lot; customary accessory structures placed in the front yard must meet the front yard setback in the land use schedule.

For lots with lake frontage: customary accessory structures (tool houses, playhouses, greenhouses) not to exceed 150 square feet and must be at least 10 feet from the side yard line and the lake front; customary accessory structures placed on the road frontage side must meet the front yard setback in the land use schedule.

The intention of this requirement is to allow property owners who do not have lake frontage to place accessory structures in their rear yard closer than the side and rear lot setbacks established in the land use schedule; and to allow property owners who do have lake frontage to place accessory structures closer to the lake than would be allowed under the land use schedule but not closer to the road.

- C. Animal shelters for domestic pets properly maintained.
- D. Other structures such as private swimming pools and fireplaces.
- E. Customary farm buildings located on the same parcel as the principal use.
- F. Off-street parking.
- G. The keeping of animals on non-farm lots for 4-H and similarly organized youth groups (approval is conditional upon a letter from the project supervisor certifying participation in the 4-H or other organizations' program.) No approvals are necessary on farms.
- H. Roadside stands for the sale of seasonal farm produce or homemade items. Such stands are to be set back at least 30 feet from the road right-of-way, provide safe off-street parking for at least three motor vehicles, and include a driveway that permits vehicles to enter the road without backing onto it.
- I. Docks and mooring facilities.
- J. Non-commercial, outdoor recreation.
- K. Non-commercial, residential recreational access lots with lake frontage: The use of lake front, privately-owned, non-commercial lots, including, but not limited to, lake access by means of rights-of-way or easements for residential recreational purposes is permitted so long as:

1. Any such recreational use of a lot or parcel is accessory to a permitted single-family residential dwelling, whether or not the dwelling is located proximate to the lake access lot, and
2. Any such lot has lake frontage of at least one hundred (100) feet.

Section 302.3 - Uses Requiring a Special Permit

- A. Two-family dwelling.
- B. Multi-family housing.
- C. Mobile homes.
- D. On a farm, more than three one-family dwellings or mobile dwellings for use by the farm owners or employees actively involved in the farm operation.
- E. Property used for seasonal rental purposes including single family homes.
- F. Churches and other similar places of worship, parish houses, convents, and similar facilities of religious groups.
- G. Public recreation areas including parks, playgrounds, and play fields.
- H. Public buildings, libraries, museums public and non-profit private schools accredited by the State Education Department.
- I. Hospitals, nursing homes, and colleges that are licensed or accredited by New York State.
- J. Home businesses provided they are carried on in conjunction with the residential use of the property by residents, and with no evidence except sign.
- K. Public utility uses.
- L. Development of special flood hazard areas designated by the Federal government, swamps, wetlands, streams, lakes, steep slopes (Section 408).
- M. Business-Commercial-Professional uses including commercial recreational activities but excluding all commercial mining activity even if regulated by the DEC and excluding all junkyards whether commercial or not (both commercial mining and all junkyards are not allowed in this district).

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## ARTICLE 4 - SUPPLEMENTARY REGULATIONS

### Section 401. - Additional Regulations For All Lots

This article provides for the safety of the occupants of buildings and of those who use the roads. Therefore, those who build, buy, use, repair, or remodel any buildings shall observe all housing and sanitation codes and standards established by New York State, Town of DeRuyter, and Madison County.

### Section 402. - Obstruction of Vision

On a corner lot, there shall be no obstruction of vision creating a safety hazard for anyone using the intersecting roads. The determination of an appropriate "clear zone" shall be made by the Code Enforcement Officer and county or town highway superintendent.

### Section 403. - On-premises Parking Space for Vehicles

The following minimum parking spaces shall be provided on the premises:

One and two family dwelling units including mobile dwellings: Two per dwelling unit;

Multi-family dwelling unit: Two per dwelling unit plus one extra for service and guests for each 3 dwelling units;

Hotel, Motel, Tourist Home, Boarding House: One per guest room plus three for service;

Bed and Breakfasts, guest and vacation homes, seasonal rental units: two per dwelling unit and one per guest room.

Other Businesses: One per 100 square feet of customer floor space; and

Public Assembly, Government Buildings, Outdoor Recreation: As required in granting the special permit.

### Section 404. - Performance Standards

In all districts any uses that endanger the health, safety, or welfare of any person are prohibited. The planning board under its powers of site plan review shall decide whether proposed uses meet reasonable standards for such purposes. Such standards may apply to noise, odor, dust, dirt, smoke, noxious gases, building vibrations, dangerous glare or other impairment of vision, contamination of soil and open water systems, and other physical conditions.

### Section 405. - Storage of Flammable Liquids, Chemicals and Explosives

The design, construction, maintenance, and operation of storage facilities for flammable liquids, chemicals, and explosives shall comply with all applicable laws, codes, and regulations.

### Section 406. - Junkyards

#### Section 406.1 - Commercial Junkyard

All junkyards require a junkyard permit issued by the Town pursuant to General Municipal Law 136. Operation of a junkyard for commercial use requires a special permit.

#### Section 406.2 - Screening

All new and existing junkyards, whether commercial or not, visible from an adjacent public road shall be screened on all sides by a fence and/or evergreens to provide a visual barrier not less than six feet high. The barrier shall not be closer to the lot line than specified for other business establishments in Section 203. Existing Junkyards have one (1) year from the date of adoption of this local law to comply.

Section 407. - Extraction of Topsoil, Sand, Gravel, or Stone

Operation of a mine for other than personal, non-commercial use constitutes a business and requires a special permit. All land owners shall comply with the New York State Mined Land Reclamation Law (Chapters 1043, 1044) which requires that operators who mine more than 1000 tons of minerals from the earth within 12 successive calendar months must obtain a permit for such operations from the Department of Environmental Conservation.

Section 408. - Conservation of Steep Slopes

The construction of new buildings, roads, and other facilities on slopes of 15% or more grade (15% = 1 ½ foot rise in 10 feet horizontal distance) shall require a special permit, and a performance bond may be required. Logging on such areas shall comply with New York State Department of Environmental Conservation Standards.

Section 409. - Public Utilities and Services

All new construction and erection of Public Utilities and Services, except hookups to single customers from existing facilities, require the granting of a special use permit.

This applies to, but is not limited to, those utilities that furnish power, fuel, water, communications, and such public services as fire, police, solid waste disposal, and premises for government agencies.

Section 410. - Building and Sites of Historic or Natural Value

All buildings and sites that are now or hereafter designated by the Town Board, as Sites of Historic or Natural Value shall require a special use permit before alteration or destruction.

Section 411. - Non-Conformities

For purposes of this Law, a non-conformity is defined as any structure, lot, or use, which does not conform to the regulations as set forth in this Law for the district in which it is situated, but which lawfully existed prior to the enactment of the Law or any revision or amendment thereto, and which is maintained after the effective date thereof, although it does not conform to the use or area regulations of the district in which it is located.

Section 411.1 - Policy

It is the intent of this Law to permit non-conformities to continue but not encourage their survival, where such non-conformities do not endanger the public health, safety, and welfare.

Section 411.2 - Construction Approved Prior to Law

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within six (6) months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within one year of the date of the permit, and which entire building shall be completed according to such plans as filed within two (2) years from the date the permit was issued.

Section 411.3 - Nonconforming Uses

All lawful uses existing at the time of the enactment of this Law may be continued although such use does not conform with the provision of this Law provided:

- A. No non-conforming use shall be extended, expanded or enlarged into any building or lot, or portions thereof, not used for such purposes on the day of the enactment of this Law without a special permit. However, a non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the enactment of this Law;

- B. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Law without a special permit;
- C. If any such non-conforming use ceases for any reason for a period of one (1) year or more, such use shall not be reestablished without a special permit. Intent to reestablish or resume a non-conforming use shall not confer the right to do so. In case of a non-conforming business or commercial use, if the structure remains closed for business for a period of one (1) year or more, the non-conforming use shall be regarded as ceased. Any previously issued special permit in conjunction with this section shall also cease;
- D. No such non-conforming use shall be restored or structurally altered in any way that will increase its degree of non-conformance without a special permit. A non-conforming use may be structurally altered or renovated so as to decrease its degree of non-conformance; and
- E. Any non-conforming building or use, if changed to conform to the requirements of this Law, shall not thereafter be changed back to a non-conforming building or use.
- F. A non-conforming use may be restored following damage by natural causes (including fire and wind) provided that it shall not be enlarged without the issuance of a special permit.

#### Section 411.4 - Non-Conforming Buildings

A non-conforming building is any building which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for lot area, width, or depth; front, side, or rear yards; maximum height; lot coverage; minimum habitable area per dwelling unit; off-street parking or loading; or landscaping, screening, or fencing requirements.

A. Non-conforming buildings may be continued, repaired, structurally altered, moved, reconstructed or enlarged provided that action does not increase the degree of or create any new non-conformity.

#### Section 411.5 - Non-Conforming Lots

Any lot which was duly approved prior to this Local Law and which has an area less than required by this Local Law may be used for any permitted purpose if:

- A. The owner, on the effective date of this Local Law, has no adjoining land which would permit the owner to make the lot conforming and if all other land use and planning requirements are satisfied, or if:
- B. The owner obtains a variance pursuant to the provisions of Article 6. Such a variance may only be granted if the applicant demonstrates that all requirements of New York State, Madison County and the Town of DeRuyter laws relating to residential lots, such as percolation, sewage disposal, water, etc. can be satisfied.
- C. All uses and buildings, whether conforming or not, may be rebuilt or restored on non-conforming lots following damage by natural causes (including fire and wind).

#### Section 411.6 - Non-conforming lots in previously approved subdivisions

Any lot in a subdivision which has an area less than required by this Local Law may be used for any permitted purpose if:

- A. The subdivision was approved by either the NYS Department of Health or the Madison County Department of Health prior to establishment of the Town of DeRuyter's Subdivision

Regulations( ,1990); or approved by the Town of DeRuyter's Planning Board in conformance with the Town's Subdivision Regulations prior to the establishment of this Local Law( , 1991);

- B. The subdivision plat has been recorded in the Madison County Clerk's Office;
- C. All other current Town of DeRuyter land use and planning requirements are satisfied.
- D. If A, B and C above has not been satisfied, the non-conforming lot can still be used for any permitted purpose if the owner obtains a variance from the Town of DeRuyter's land use and planning requirements pursuant to the provision of Article 6. Such a variance may only be granted if the applicant demonstrates that all requirements of New York State, Madison County, and the Town of DeRuyter's laws relating to residential lots, such as percolation, sewage disposal, water, etc. can be satisfied.

The intention of this Section is to allow persons who have legally subdivided lots meeting the Town's previously required minimum lot size to be able to use and or sell those lots without having to undergo additional review.

Section 411.7 - Reduction of lot area—Creation of Non-Conforming lots

A. No non-conforming lot shall be created where no non-conforming lot existed prior to the passage of this local law. No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage, or other requirements of this local law shall be smaller than herein prescribed for each land use district without a variance. The provisions of this Section shall not apply when part of a lot is taken for a public purpose.

Section 411.8 - Farms and Farm Buildings in Residential Districts

A. Expansion or enlargement of an existing farm and its farm buildings within the Residential District does not require a special permit.

Section 411.9 - Nonconforming, Non-Commercial, Residential Recreational Access Lots with Lake Frontage

A. In the Lake Watershed District, pre-existing, non-commercial residential recreational access lots, including, but not limited to, lake access by means of rights-of-way or easements, which exceed the single-family per one-hundred (100) feet of frontage density standard, have a legal right to continue. No pre-existing, non-conforming access lot may be sold, rented, leased, of otherwise transferred, for easements, rights-of-way or licenses whether temporary or permanent to the effect of expanding a pre-existing nonconformity.

Section 412. - Foundation

A. All permanent dwelling units and buildings shall be securely fastened to a foundation, columns, or slabs as appropriate, so as to prevent tipping or overturning during periods of high winds.

Section 413. - Skirting

A. All permanent dwelling units and buildings without foundations shall be skirted with opaque material extending from ground level to the bottom of the siding.

Section 414. - Minimum square footage

A. All permanent dwelling units shall have a minimum of 700 square feet of living space.

Section 415. - Water and Septic Systems

- A. All permanent dwellings shall have a sewer/septic and water system which has been designed and built according to the current requirements of the New York State Department of Health, except as described below. Existing installations in the Town must function properly or shall be rebuilt to conform to the minimum state or town standards, if found to be an imminent health hazard.
- B. Where a private septic system is used, an alternate system must be installed or the site must be modified according the NYS Health Department Regulations if the percolation rate is faster than one inch per five minutes (that is, an inch of water takes fewer than five minutes to percolate through the soil) or slower than one inch per 60 minutes (that is, an inch of water takes longer than 60 minutes to percolate through the soil).

Section 416. -Mobile Home Parks

- A. Any mobile dwelling park, recreational vehicle park, or campground where there may be two (2) or more mobile homes, recreation vehicles, tents, tent houses, cabins, or other devices used for sleeping facilities shall comply with all land use regulations as appropriate as well as the following regulations specific to such parks:
  1. applicants must prepare and submit a complete set of plans showing the following:
    - a. the area and dimensions of the tract of land;
    - b. the number, locations, and size of all lots or plots;
    - c. the location and width of roadways and walkways;
    - d. the location of service buildings and other structures;
    - e. the location of water and sewer lines;
    - f. plans and specifications of the water supply and refuse and sewage disposal facilities;
    - g. the location and details of the lighting and electrical systems;
  2. the plans must be certified by a suitably qualified registered engineer that all septic and water systems comply with New York State and Madison County Department of Health regulations;
  3. each tract shall be subdivided and marked off into plots which shall contain at least 5,000 square feet for mobile dwellings and at least 1,500 square feet for recreation vehicles and other camping facilities;
  4. the site shall be located on a well-drained site, properly graded to ensure drainage and freedom from stagnant pools of water;
  5. the site owner must provide for the collection and removal of garbage at least once every seven (7) days and provide garbage cans with tight fitting lids; the site owner shall also provide for the collection and removal of recyclables at least once every fourteen (14) days;
  6. portable fire extinguishers of a type approved by the local fire department shall be kept in locations designated by the department and maintained in a good operating condition.

Section 417. - Required Access for Building Lots

No Building or structure shall be allowed on any parcel of land that depends for access on Town roads listed as "seasonal use highways" by the Town Highway Superintendent. No building or structure shall be allowed that is not accessible by the fire and emergency vehicles in use within the Township of DeRuyter at the time of construction. No building permit shall be issued for any building or structure that does not comply with this article.

Section 418. - Temporary Placement of a Mobile Dwelling During Home Construction

A. The Enforcement Officer shall issue a Temporary Permit for the placement and occupancy of a mobile dwelling at the site of a home under construction or reconstruction for a period of one (1) year and may renew said permit once for a period not to exceed one (1) year upon the approval of the Zoning Board of Appeals, so long as all area, sanitary code and other applicable ordinance requirements are met.

Section 419. – Standards for Decks

- A. The construction of any deck meeting the definition provided in these regulations requires a building permit. No fee will be charged for this permit.
- B. Decks must be set back from the side and rear lines a dimension equal to or greater than ten (10) percent of the lot width, measured continuously along the line of the deck. On lakeshore properties, decks may not extend beyond the edge of the shoreline.

Section 420

In the Lake Watershed District and within 500 feet of the Mean High Water Mark of the DeRuyter Reservoir, recreation vehicles, including mobile homes which are less than 700 Sq. Ft., travel trailers, truck and tent campers, vans so equipped and motor homes, shall not be used as temporary dwelling units for a period in excess of two weeks during any one calendar year unless located in a commercially operated mobile dwelling park or recreational vehicle park, without Special Permit approval granted by the Planning Board.

Special Permit approval for the temporary, seasonal placement of a recreational vehicle on a lot shall be contingent on the showing that each of the following conditions will be met:

- That sanitary disposal facilities will be utilized meeting all applicable standards under the Town of DeRuyter Sanitary Ordinance;
- That all applicable setbacks and sideline area requirements applying to the lot in question will be met;
- That under no circumstances will density restrictions (i.e. no more than one residence per lot) be exceeded.

## ARTICLE 5 - EXISTING SUPPLEMENTAL REGULATIONS

Section 500. - General

Ordinances, laws and other forms of regulations which deal with specific land uses in the Town of DeRuyter exist or may be enacted by the Town Board. In addition, ordinances, laws, and other forms of regulations enacted by Madison County and New York State affect land use in the Town. These regulations shall be enforced in concert with this land use law. Among the regulations which exist at the time this local land use law is enacted are the following:

Section 501. - Development OrdinanceSection 502. - Sanitary OrdinanceSection 503. - Town of DeRuyter Dog Control LawSection 504. - Flood Damage Prevention Local LawSection 505. - Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code Local LawSection 506. - Prohibition of Dump, Refuse, Disposal Site Landfill. (Madison County's regulation of dumps in the County).; Sites used for dumping or disposal of hazardous waste or nuclear waste are hereby prohibited within the limits of the Town.Section 507. - General Municipal Law Section 136 - Regulation of Automobile Junkyards (New York State statute enforced by the town)

## ARTICLE 6 - ADMINISTRATION AND ENFORCEMENT

Section 601. - Enforcement

This local law shall be enforced by the code enforcement officer.

Section 602. - Fees

- A. Fees for various permits and applications shall be charged in accordance with the following schedule:

Planning Board Application	\$25.00
Board of Appeals Application	\$50.00

- B. The Town Board of the Town of DeRuyter is hereby authorized to modify the fee schedule set forth herein from time to time by resolution of the Board. Such fees shall be fixed by resolution of the Town Board and shall be available for inspection at the Town Clerk's Office.

Section 603. - Building Permits

- A. No building shall be erected, extended, or put in place until the code enforcement officer has issued a building permit certifying that it meets all the requirements of this local law.
- B. Building permit application procedures are set forth in Local Law No. 3 of 1985.

Section 603.1 - Certificate of Compliance Procedure

- A. A certificate of compliance shall be applied for coincident with the application for a building permit. A Certificate of shall also be applied for prior to beginning a change of use of an existing building or a vacant parcel on which new construction will occur.
- B. No land shall be occupied or used and no building, structure or system hereafter erected, altered or extended shall be used or changed in use until a certificate of compliance shall have been issued by the code enforcement officer stating that the building, structure, system, or land alteration and proposed use thereof comply with the provisions of this local law. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been inspected and found to comply with the provisions of this local law.
- C. The town clerk shall maintain a record of all certificates, and copies shall be furnished upon request.

Section 604. - Driveways

- A. The location of a new driveway onto town, county and state roadways shall be cleared with the appropriate highway department for approval of the location.

Section 605. - Variances And Board of Appeals

### Section 605.1 - Appointment of a Board of Appeals

The Town Board shall appoint a Board of Appeals as pursuant to Article I6 of the Town Law. Its purpose is not to make laws but to provide flexibility where needed in the application of this local law.

### Section 605.2 - Powers and Duties of the Board of Appeals

- A. The Board of Appeals shall have the following powers and duties:
1. Upon appeals of a decision by the Codes Enforcement Officer, to decide questions involving interpretation of any provision of this local law.
  2. To grant area and use variances upon application, if justified.
- B. Decisions of the Board of Appeals shall be made within 90 days from the time that the complete application has been filed with the board; decisions shall be by resolution and shall contain a full statement of findings of fact in the minutes of the board.

### Section 605.3 - Application Procedure

An appeal for interpretation of a decision made by an officer of the Town on any part of this local law or a request for a variance may be made to the Town Clerk or to the Codes Enforcement Officer. In reply, the Town Clerk will furnish an application form and instructions, along with a statement of the standards to be followed and the procedure, including a Public Hearing, required by law. When the application form is filled in and returned to the Town Clerk, along with the prescribed fee, it will be given to the Board of Appeals within one (1) week.

### Section 605.4 - Variance

A variance is a legal permit for a modification of some part of the Land Use law to meet an individual hardship. "Hardship" does not refer to a personal hardship of the property owner/user. Rather, "hardship" refers to the inability of the property to be used for a permitted use or to the inability to meet the lot area and/or dimensional requirements. When such a hardship is proven, the Board of Appeals may authorize a change in the permitted size or use of a specific building or a parcel of land.

If a use or construction authorized by a variance has not been started and continued within one year, the Board of Appeals may revoke the variance and require a new application.

When a variance is granted, the Board of Appeals may prescribe conditions to be observed in order to protect the health, safety, or welfare of the public, to preserve the general character of the neighborhood, and to minimize possible detrimental effects on nearby property.

No variance shall be granted with respect to any property or any use on or for which a violation currently exists. (Non-conforming uses as outlined in Section 411 are not considered violations of this local land use law.)

### Section 605.5 - Granting of Variances

- A. The Board of Appeals shall act in strict accordance with the procedure specified by state law and by this law. All applications made shall be in writing on forms prescribed by the Board. Every application shall refer to the specific provision of the law involved, the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted.
- B. Each application shall include a site plan of the proposed use or construction to enable the Board of Appeals to evaluate development constraints inherent in the property and the proposed use's or construction's compatibility with the existing uses in its vicinity and with the purpose of this law. Upon the granting of any variance, the submitted site plan, with any

modifications required by the Board, shall become a part of the record on which future compliance with the terms of the variance shall be based.

- C. Written notice setting forth the general nature of the variance application and the date of any public hearing shall be forwarded by first-class mail by the Town Clerk to those addresses as appear on tax rolls in use at the time of mailing for owners of property located adjacent to and/or within 500 feet of the area affected by the proposed variance.

#### Section 605.6 - Standards for Granting Variances

No variance for modification of the strict application of any provision of this law shall be granted by the board unless it finds that:

##### **I. For Use Variances:**

A. The Board of Appeals, on appeal from the decision of determination of the Enforcement Officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this law.

B. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that the applicable land use regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that:

1. under applicable land use regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. that the alleged hardship has not been self-created.

C. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the Town.

##### **II. For Area Variances:**

A. The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Enforcement Officer, to grant area variances from the area or dimensional requirement of this law.

B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. whether the requested area variance is substantial;
4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district; and
5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

C. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the Community.

### **III. Impositions of Conditions:**

The Board of Appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the land use ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

#### Section 606. - Planning Board

The Town Board shall appoint a Planning Board pursuant to Article I6 of the Town law.

The Planning Board shall have the following powers and duties:

- A. To issue Special Permits required by this law.
- B. To conduct site plan reviews as required by this law.
- C. To undertake planning activities allowed by Town Law.

#### Section 607. - Special Permits

A special permit gives some means of control of proposed new uses of land and buildings which might or might not be compatible with land uses permitted by right by the Land Use Law. Specifically, it gives the Planning Board the opportunity to determine whether such proposed new development—in the particular location, at the particular scale, and of the particular site design contemplated—will create special problems which can be ameliorated by specially devised conditions or which call for denial of permission.

No special permit shall be granted with respect to any property

or any use on or for which a violation currently exists. (Non-conforming uses as outlined in Section 411 are not considered violations of this local land use law.)

If a use or construction authorized by a special permit has not been started and continued within one year, the Planning Board may revoke the special permit and require a new application.

#### Section 607.1 - Application Procedure

A request for a special permit may be made to the Town Clerk or to the Codes Enforcement Officer. In reply, the Town Clerk will furnish an application form and instructions, along with a statement of the standards to be followed and the procedure, including a Public Hearing, required

by law. When the application form is filled in and returned to the Town Clerk, along with the prescribed fee, it will be given to the Planning Board within one (1) week.

Section 607.2 - Granting of Special Permits

- A. An application to the Planning Board for a special permit shall be accompanied by one (1) set of preliminary site plans and other descriptive matter to show clearly the intentions of the applicant. These documents shall become a part of the record to determine if the proposed special use meets the requirements of this law.
- B. Once granted, all Special Permits require formal Site Plan Approval as set forth in Sections 608.1 through 608.3.
- C. Written notice setting forth the general nature of the special permit application and the date of any public hearing shall be forwarded by first-class mail by the Town Clerk to those addresses as appear on tax rolls in use at the time of mailing for owners of property located adjacent to and/or within 500 feet of the area affected by the proposed special permit.

Section 607.3 - Standards for Granting Special Permits

The Planning Board shall review the special permit application to assure that it accords with the following:

- A. Location, size and use of structure, nature and intensity of operations involved, size of site in relation to it, and the location of the site with respect to roads giving access to it are such that it will be in harmony with orderly development of the district;
- B. Location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value;
- C. The special use shall not conflict with any master plan, or part thereof;
- D. Operations of any special use shall not be more objectionable to nearby properties than would be the operations of any permitted use;
- E. A special permit shall not be issued for a use on a property where there is an existing violation of this law;
- F. Off-street parking, loading facilities, and vehicle ingress and egress to the special use shall be such as not to interfere with existing vehicular and pedestrian traffic patterns as they adjoin the property;
- G. The special use shall have no significant adverse effect on off-site storm water run-off, erosion of soil, or sedimentation or watercourses and water bodies;
- H. The special use shall have no adverse effect on the quality of the Town's sources of groundwater or of the water of its lakes, ponds, wetlands, or streams;
- I. Special permits may have an expiration date determined by the planning board. Renewal shall be contingent on findings of the Codes Enforcement Officer that any conditions originally imposed by the Planning Board have been, and continue to be, complied with;
- J. The use shall not have an adverse effect on the agricultural industry of the area; and
- K. The use shall be in strict compliance with the requirement of Article 5 (Flood Hazard Area) or any subsequent Flood Hazard Control Law adopted by the Town.

The Planning Board may impose additional standards on the special use to provide adequate safeguards to protect the health, safety, or general welfare of the public, to preserve the general character of the neighborhood in which such proposed special use is to be placed, and to minimize possible detrimental effects of use on adjacent property.

Section 608. - Site Plan Reviews

The Planning Board, at a regularly scheduled or specially called public meeting of the Board, shall review and approve, disapprove or approve with modifications, all site plans for a special permit.

Section 608.1 - Submission of Site Plan and Supporting Data

A site plan and supporting data for a special permit and/or site plan approval shall be submitted to the Planning Board. The owner shall submit a site plan and supporting data as required and shall include all or a portion of the following information presented in drawn form and accompanied by a written text. The amount of information required will depend on the scope of the proposal and shall be determined by the Planning Board.

- A. Survey of the property, showing existing features of the property, including contours, large trees, buildings, structures, streets, utility easements, right-of-way, land use, land use district, and ownership of surrounding property;
- B. Site plan showing proposed lots, blocks, building locations, and land use area;
- C. Traffic circulation, parking and loading spaces, and pedestrian walks;
- D. Landscaping plans, including site grading, landscape design, and open areas;
- E. Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations, and sections;
- F. Preliminary engineering plans, including road improvements, storm drainage system, public utility extensions, water supply, and sanitary sewer facilities;
- G. Engineering feasibility studies of any anticipated problems which might arise due to the proposed, as required by the Planning Board;
- H. Construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas;
- I. A description of the proposed uses, including hours of operation, number of employees, expected volume of business, and type and volume of traffic expected to be generated; and
- J. As required under NYS Environmental Quality Review Act (SEQR) a full or short Environmental Assessment Form (EAF) shall be submitted if proposed action is, respectively, a Type 1 or an Unlisted Action.

Section 608.2 - Site Plan Approval

The Planning Board shall review the site plan and supporting data before approval, rejection, or approve with modifications and/or stated conditions to assure that any site plan approval accords with the following:

- A. Harmonious relationship between proposed uses and existing adjacent uses;
- B. Maximum safety of vehicular circulation between the site and road network;
- C. Adequacy of interior circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety; and
- D. Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.

Should changes or additional facilities be required by the board, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with the changes or additions.

Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the planning board for review and approval.

Section 608.3 - Performance Bond as a Condition of Site Plan Approval

The planning board may require as a condition of site plan approval that the owner file a performance bond in such amount as they determine to be in the public interest to insure that the proposed development will be built in compliance with the accepted plans.

Section 609. - Changes and Amendments of the Land Use Ordinance

Section 609.1 - Periodic Review

From time to time, at intervals of not more than three years, the town Planning Board shall reexamine the provisions of this local law and the location of district boundary lines and shall submit a report to the Town Board recommending such changes or amendments, if any, which may be desirable in the interest of safety, health, or welfare of the public.

Section 609.2 - Procedure for Amendments

- A. Regulations, districts and boundaries established by this local law may be amended or repealed after official notice has been given and a public hearing has been held by the Town Board as required by law and County Planning Board review received in certain cases as mandated in Article 12-B, Section 239m of the General Municipal Law.
- B. Each petition requesting a change of land use regulations or district boundaries shall be typewritten, signed by the owner, and filed in triplicate with the Town Board to the code enforcement officer, and accompanied by the required fee.
- C. At least 35 days before the date of the public hearing required by law, the Town Board shall transmit to the Planning Board a copy of the proposed amendment or change, with supporting documents, and notice of hearing. The Planning Board shall submit its recommendations within 35 days, failing which a recommendation of approval from the Planning Board shall be assured.
- D. The Planning Board may require a site plan of the proposed development for which a change of land use district is sought to assist them in their understanding of the case.
- E. The Town Board shall hold a public hearing within 60 days of the submission date of any petition as required by this section.

Section 610. - Referral to County Planning Board

Under Sec.239(l), (m), and (n) of Article 12B of New York State General Municipal Law, all requests for variances, special permits, site plan reviews, map and test amendments shall be referred to the Madison County Planning Board for their recommendation if the property affected is within 500 feet of:

- A. the boundary of any city, village or town;
- B. the boundary of any existing or proposed county or state park or other recreation area;
- C. the right of way of any existing or proposed county or state road or highway;

- D. the existing or proposed right of way of any stream or drainage channel owned by the county or for which the county has established channel lines; and
- E. the existing or proposed boundary of any county or state owned land which a public building or institution is situated.

Article 12-B, Section 239 of New York State's General Municipal Law should be consulted to ensure proper referral is made. Failure to refer those requests to the County Planning Board before local action is complete may invalidate any local decision.

Section 611. - Violations

- A. Any person may file a complaint about a violation of this law. Such complaints must be in writing, signed, and filed with the codes enforcement officer, the town clerk, or the Town Board. The code enforcement officer shall investigate promptly and take the appropriate action to satisfy that complaint.
- B. Any violation of this law as determined by the Codes Enforcement Officer must be reported to the offender by the Code Enforcement Officer or the Town Board, with the date by which the violation must be corrected.
- C. A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700.00 nor more than \$1000.00 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon Courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violations shall constitute a separate additional violation.
- D. In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure of land is used, or any land is divided into lots, blocks, or sites in violation of this article or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

Section 612. - Stop Work Orders

- A. Whenever the codes enforcement officer has reasonable grounds to believe that work on any building or structure is proceeding without permit or is otherwise in violation of the provision of this law or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued, or is being conducted in an unsafe and dangerous matter, he shall notify either the owner of the property or the owner's agent or the person, firm, or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

- B. Such stop-work order shall be in writing on a form prescribed by the codes enforcement officer and shall state the reasons for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the codes enforcement officer or that of a duly authorized designee and shall be prominently posted at the work site.

Section 613. - Appearance Tickets

Upon resolution of the Town Board of the Town of DeRuyter specifically so designating, the codes enforcement officer shall have authority, pursuant to Article 150 of the New York Criminal Procedure Law, to issue appearance tickets as defined therein for the purpose of enforcing the local law.

Section 614. - State Supreme Court Review

Pursuant to the Town Law of the State of New York, Sections 267 and 274-a, any person or persons jointly or severally aggrieved by any decision of the Board of Appeals, the Planning Board, or any officer of the Town may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules. Such proceeding must be instituted by the aggrieved party within thirty days after the filing of that decision in the office of the Town Clerk.

Section 615. - Separability

If any part of this law is found to be invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this law.

Section 616. - Enforcement

The provisions of this law shall be strictly enforced by the Codes Enforcement Officer.

Section 617. - Effective Date

The Town of DeRuyter Land Use Law of 1991 shall take effect upon filing with the Secretary of State.

## APPENDIX 1 - DEFINITIONS

**Customary meanings of words:** except where specifically defined herein all words used in this law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular, the word “lot” includes the word “plot,” the word “building” includes the word “structure”; the word “shall” is intended to be mandatory; “occupies” or “used” shall be considered as though followed by words “or intended, arranged or designed to be used or occupied.”

**Accessory Structure:** See Building Accessory

**Animal Hospital:** Any structure under veterinary supervision for the treatment of sick or injured animals.

**Building:** Any structure other than a boundary wall or fence which covers or encloses space with the following exceptions: silos of all kinds and livestock slurry storage tanks are considered to be buildings; household decks are not considered to be buildings

**Building Accessory:** A supplemental building, the use of which is incidental to that of a main or principal building or incidental to the principal use and located on the same lot therewith. All accessory buildings must conform to front and side yard requirements of the district in which they are located.

**Building Area:** The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between the exterior faces of walls.

**Building, Farm:** Any building used solely for the housing of agricultural equipment, produce livestock, or poultry, or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operation of the farm.

**Building Height:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**Building Line:** The line of that face of the building nearest the front line of the lot. This face includes sun parlors, covered porches whether enclosed or unenclosed (but does not include steps) and any overhang. In the case of a cantilevered building, the building line shall coincide with the most projected surface.

**Building, Principal or Main:** A building in which is conducted the principal use of the lot on which it is located.

**Business or Commercial:** See Commercial or Business.

**Camp, Seasonal:** Land on which is located one cabin, camping trailer, shelter, or other accommodation suitable for seasonal or temporary living purposes, exclusive of mobile dwellings, primarily for the use of the owner.

**Camp, Day:** Any land including any building thereon used for any assembly of persons for what is commonly known as “day camp” purposes, whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families, or groups.

**Camp Ground:** A parcel of land used or intended to be used, let, or rented for occupancy by persons utilizing trailers, tents, campers, or other such forms of recreational dwellings.

**Certificate of Compliance:** A certificate issued by the proper officer of the town certifying that the building, structure, system, or land alteration and proposed use thereof comply with the provisions of this local law.

**Club, Membership:** An organization catering exclusively to member and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain providing they are not operating any vending machines or merchandising or commercial activities except required generally for the membership and purposes of such club.

**Cluster Development:** A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of an open space as part of the subdivision plan.

**Commercial or Business:** Of or pertaining to purchase, sale or transaction involving the disposition of any article, substance, commodity or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit; and also the renting of rooms, business offices and sales display rooms and premises.

**Coverage:** That percentage of the plot or lot area covered by the building area.

**Deck:** A structure which forms a roofless walking surface 18" or more above ground level and which is greater than 50 sq. ft. in area; not intended to be enclosed and/or used as a room.

**Dock:** A structure built along or at an angle from the shore so that boats may lie alongside to receive and discharge cargo and passengers.

**Domestic Animals or Pets:** Animals which normally live in the same dwelling unit as their owner and are not kept for a commercial use. Horses are not considered to be a domestic animal or pet.

**Dump:** A lot of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

**Dwelling, Unit:** A building or a portion of a building designed or used as the permanent living quarters for one or more families. The term "dwelling" shall not be deemed to include automobile court, rooming house, tourist home, motel, hotel, or temporary camps.

**Dwelling, Seasonal:** A building such as a cabin, shelter, or other accommodation suitable only for seasonal living quarters, exclusive of a mobile dwelling.

**Dwelling, One-family:** A detached building containing one dwelling unit only and intended for the use of a single-family.

**Dwelling, Two-family:** A detached building containing two dwelling units.

**Dwelling, Multi-family:** A building or portion thereof containing three or more dwelling units and used for occupancy by three or more families living independently of each other.

**Family:** One or more persons who live together in one dwelling unit and maintain a common household. May consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and occasional guests.

**Farm:** Any parcel containing five or more acres of land which is normally used for gain in the raising of agricultural products, including crops, livestock, poultry, dairy products, orchards, horticultural nurseries, and tree plantations, maple sugar, and stabled animals. It includes necessary farm buildings and structures within the prescribed limits and the storage of equipment used.

**Garage, Private:** An accessory building used in conjunction with a principal building which provides for the storage of motor vehicles and in which no occupation, business, or services for profit are carried on.

**Garage, Public:** Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

**Home Business:** Any use customarily carried on in a dwelling unit or in an accessory structure by a member of the family living in the dwelling unit and not more than four other non-family employees, which use is secondary to the residential purpose of the dwelling and produces no offensive noises, vibration, smoke, dust, odors, heat, or glare, or outside storage of equipment and/or materials used in the Home Business.

**Hospital:** Unless otherwise specified, the term "hospital" shall be deemed to include without limitation sanitarium, sanatorium, preventorium, clinic, rest home, convalescent home, nursing home, and any other place for the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment, or other care of human ailments.

**Hotel, Motel, Tourist Home:** A building or buildings in which overnight accommodations are provided for transient guests for compensation.

**Industry or Industrial:** Means and includes storage, manufacture, preparation, process, or repair of any article, substance, or commodity and the conduct of the industrial trade but shall not mean such preparation, processing, or repair as are customarily applied to articles, substances, or commodities in retail businesses or trade for on-the-premise transactions.

**Institution:** A building occupied by a non-profit establishment for public use.

**Junkyard:** Land used for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material, or for the collecting, dismantling, storage and salvaging of two or more motor vehicles either unlicensed or not in operating condition. Motor vehicles registered on a seasonal basis are exempt from this definition.

**Kenel:** Any premises on which four or more dogs over four months of age are kept for commercial care.

**Landscaped Area:** Any non-built-upon area of grass, agricultural fields, pasture, woodlot, forest, standing or flowing water maintained in healthy condition.

**Lot:** A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this local law. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

**Lot, Access With Lake Frontage::** A lot .with frontage in the Lake Watershed District intended primarily to provide open space access to the lake for non-commercial, recreational activity accessory to a single-family residential use.

**Lot Area:** An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public road right-of-way shall not be included in calculating lot area.

**Lot Depth:** The mean distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.

**Lot Lines:** The property lines bounding the lot.

**Lot, Through:** An interior lot having frontage on two parallel or approximately parallel roads.

**Lot, Width of:** The mean width measured at right angles to its depth.

**Mobile Dwelling :** (mobile home) - A one-family dwelling, designed for and used by a single family, which is at least 700 square feet, transportable in one or more sections, built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A prefabricated dwelling built to Federal and State Building Code Regulations, or a sectional dwelling and all travel trailers, truck campers, and motor homes shall not be considered a mobile dwelling.

**Mobile Dwelling Park (Trailer Park or Mobile Home Park):** Any area of land or a building designated as a parking space for two or more mobile dwellings/homes which are used for living purposes in space leased or rented commercially, whether currently occupied or currently open for public occupancy.

**Mooring Facility:** A chain, buoy, pennant, or other device by which a vessel is secured in place.

**Non-Conforming Building:** A building which in its design or location upon a lot does not conform to the regulation of this law for the district in which it is located.

**Non-Conforming Lot:** A lot of record existing at the date of the passage of this law which does not conform to the use and/or area regulations of the district in which it is situated.

**Non-Conforming Use:** Any use of any building, structure, or land existing at the time of enactment of this law which does not conform to the use regulations of the district in which it is situated.

**Parking Space or Parking Space Unit:** An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of passageways or driveways, and having direct access to a road, highway, or alley.

**Plat:** A map, plan or layout of a city, town, section or sub-division indicating the location and boundaries of individual properties.

**Pre-existing, Private Lakeside Roads:** All private, lakeside roads within the confines of West Lake Road, South Lake Road, East Lake Road and Dam Road within the Town of DeRuyter as shown on the Tioughnioga Lake Assn., Inc. 1992-1994 Directory on file with the Town Clerk, including roads #1-3; 3A; 3B; 4A; 4B; 5-8; 8A; 9; 10; 10A; 10B 11-16; 16A; 16B; 16C and 17.

**“Public Water” or “Public Sewer”:** Wherever the phrase “public water” and/or “public sewer” is used, it shall be deemed to refer to a water or sewage system which is owned and operated by a government authority or by a utility company or a sewer district adequately controlled by a government authority.

**Recreation:** Leisure time activity.

**Recreation, Commercial:** A leisure time activity operated as a business and open to the public for a fee. This includes recreational facilities operated as a business and open to the public for a fee.

**Recreation, non-commercial:** Leisure time activity on the same lot as the principal permitted use and designed to be undertaken by the occupants of the principal use and their guests. This type of recreation includes, but is not limited to, activities such as bike riding, hiking, walking, picnicking, horseback riding, and hunting. It also includes accessory structures developed for such use, including hunting camps and a private stable for horses.

**Recreational Vehicle:** Any vehicle, whether drawn, carried or self-propelled, which is designed to be used primarily for temporary living quarters for travel, recreation, or vacation purposes. This shall include motor homes, travel trailers, truck campers, tent trailers and vans so equipped.

**Restaurant:** Any establishment, however designated, at which food is regularly sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semi-public or community pool, playground, play field or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**Right-of-Way:** The line determining the road or highway public limit of ownership. Also, an easement established for passage across land.

**Sign:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public; each display surface shall be considered to be a "sign."

**Sign, On-premises:** Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.

**Site Plan:** Maps and detailed descriptive text required for any proposed development so designated by the Planning Board (See Section 608).

**Special Flood Hazard Area:** That area along a waterway designated and mapped by the Federal Emergency Management Agency under the Flood Disaster Protection Act of 1973 as subject to flooding that could damage buildings, structures, and accessory installations in that area.

**Special Use Permit:** A permit allowing one of a number of specifically listed land uses, issued following a Planning Board review of the suitability of such a use, at a particular location, with regard to various explicit standards and subject to compliance with an approved site plan and such further conditions as the Planning Board may set.

**Stable, Private:** An accessory building in which horses are kept for private use and not for hire, remuneration, or sale.

**Stable, Public:** A building in which any horses are kept for remuneration, hire, or sale.

**Swamps, Wetlands:** Areas with permanent or seasonal standing water, or those so designated by the Soil Conservation Service and other government agencies.

**Use, Accessory:** A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

**Use, Principal:** The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

**Utilities, Community:** Community facilities for water supply and distribution, sewage collection and disposal, storm drainage, owned and operated by a private owner, semi-public agency or a public agency, for three or more dwellings or establishments.

**Utilities, Public and/or Semi-public:** Distribution points, transmission lines and stations, sub-stations, storage yards, garages, and other central buildings and/or related uses for the operation and provision of public and semi-public power, fuel, water, and communications service licensed by the Public Service Commission.

**Variance, Area:** A legally permitted modification of this land use law to allow for different dimensions in the area coverage of a specific parcel of land.

**Variance, Use:** A legally permitted modification of this land use law to allow a different use of a specific parcel of land or of a specific structure.

**Vessel:** A structure designed for navigation on a waterbody or watercourse.

**Yard, Front:** An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the edge of the highway right-of-way and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the nearest point of the front line of the building and the road right-of-way. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. The front yard must be free of any man-made building or structure. The only exception is some types of permitted roadside stands.

**Yard, Rear:** An open unoccupied space on the same lot with a main building, extending full width of the lot and situated between the rear line of the lot and rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the road right-of-way if there is a roadway, and the nearest point of the rear line of the main building. Accessory buildings may be built on the rear yard unless the lot is a “through lot.”

**Yard, Side:** An open unoccupied space on the same lot with the principal building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.