

8/18/08

Town of DeWitt Local Law # of the year 2008

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

Section 1. Title

This local law shall be referred to as "A Local Law providing for Comprehensive Miscellaneous Revisions to Chapter 192 of the Code of the Town of DeWitt (Zoning) and related codes". For reference, Chapter 192 was recently fully revised and adopted on January 1, 2008 pursuant to Town of DeWitt Local Law # 6 of the year 2007.

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town of DeWitt (also referred to herein as the "Town") to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of DeWitt adopted a Comprehensive Plan in 2002 and in said Plan authorized a thorough updating of the 1967 Zoning Ordinance and related land use portions of the DeWitt Code. By Town of DeWitt Local Law # 6 of the year 2007, the Town of DeWitt implemented the Comprehensive Plan which Local Law repealed Chapters 3, 37, 86, 97, 114, 130, 151, 167 and 192 of the Code of the Town of DeWitt in their entirety and adopted a new, reenacted Chapter 192. As part of the dictate of the Comprehensive Plan of the Town, the Town also undertook a thorough review of the zoning districts of the town and ultimately adopted Town of DeWitt Local Law # 3 of the year 2008. The Zoning Update Committee appointed by the Town Board to make recommendations relative to the adoption of the above two mentioned Local Laws continued its work in reviewing zoning code sections which were adopted as part of Local Law # 6 of the year 2007 to determine their appropriateness and effectiveness. The Zoning Update Committee also reviewed the newly enacted code sections for inadvertent and/or unintended effects of language and grammar utilized in the local law as well as typographical errors. The result of said study were presented to the Board for consideration with the resulting code section modifications and changes as set forth herein. The changes, modifications and additions to the Zoning Ordinances of the Town as set forth herein are the continuation of meeting the goals of the Comprehensive Plan of the Town in developing a comprehensive, updated and orderly Zoning Code for the Town.

Section 3.

The following sections shall be added to Chapter 192 of the Code of the Town of DeWitt "Zoning": See Exhibits A and B attached hereto.

Section 4.

The following shall be added to Chapter 172 of the Code of the Town of DeWitt:
See Exhibit C attached hereto.

Section 5.

The following shall be added to Chapter 192 of the Code of DeWitt "Zoning".
See Exhibit D attached hereto.

Section 6.

The following shall be added to Chapter 161 of the Code of the Town of DeWitt "Streets
and Sidewalks"

See Exhibit E attached hereto.

Section 7.

The Table of Contents of Chapter 192 shall be modified to add the following to Article
XV Overlay District:

"192-64.1 Business Overlay District"

Establishment of Districts

Section 8.

192-10. Districts established.

For the purpose of promoting the health, safety, morals and general welfare of the
community, the Town of DeWitt ,outside of the Village of East Syracuse, is hereby
divided into the following classes of districts:

- A. Residential R-O District
- B. Residential R-1 District
- C. Residential R-1-A District
- D. Residential R-3 District
- E. Residential R-3 District
- F. Special Business Transitional District
- G. Hamlet District
- H. Business Transitional District
- I. Business District

- J. Office and Professional District
- K. High Tech District
- L. Industrial District
- M. Overlay District
 - (1) Business Park Overlay District
 - (2) Hamlet Residential Overlay District

”

Section 9.

The invalidity of any provision of this Local law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 10.

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

Exhibit A

Proposed language changes to January 1, 2008 Zoning Code Business Park Overlay District Exhibit A (August 6, 2008)

Add the following new section:

§192-64.1 Business Overlay District

A. Purpose. In order to alleviate the effects of the restrictive nature of the allowed use of restaurants in certain High Tech Districts within the Town, and to promote the best interest of good planning so as to reduce these restrictions in those areas, this procedure is established to modify said uses.

(1) Any property owner, meeting the following criteria, may apply to the Department to implement the Business Park Overlay to their property:

- a. The property is a single lot or made of contiguous lots [hereinafter the Land] located in a High Tech District consisting of a minimum of 40 acres of land usable for development, excluding wetlands and floodplains.
- b. The owner of the Land has applied for and substantially begun, or completed the subdivision process.
- c. The access to the development is controlled by a traffic light.
- d. The proposed development and buildings on the Land shall be complementary in architecture and shall substantially comply with an overall architectural theme established in the site plan review process.

(2) The Department will forward the application to the Planning Board with its recommendation and any conditions or restrictions it suggests. The Planning Board, taking into account the Department's recommendation, will forward its recommendation to the Town Board.

(3) Taking into account the status of the project in the design, approval and construction process, the Planning Board may include in its recommendation that the construction of the restaurant may not begin until a certain number of buildings, square footage of buildings or other measurement of progress in the overall development of the subdivision has been attained. The purpose of providing a restaurant facility on the Land is to allow the occupants of the Land the convenience of nearby eating facilities, and the availability of the restaurant to the outside public is a secondary benefit.

(4) Upon the favorable recommendation of the Planning Board, the Town Board may hold a public hearing and enact, deny or modify the application for the Land to be included in the Business Park Overlay District.

(5) Upon approval by the Town Board and the inclusion of the Land in the Business Park Overlay District, up to a maximum of two non-fast food sit down restaurant facilities will be allowed on the Land, so long as no Drive-through is included.

Exhibit B
Proposed language changes to January 1, 2008 Zoning Code
Mixed Use
August 6, 2008

In §192-14 **Definitions**, replace MIXED USE with the following:

MIXED USE – A development or redevelopment that allows for two or more principal uses in any contiguous lots, in a single building or on a single lot which includes residential and commercial uses and complies with the following:

- A. Contains at least 10 acres of land that can be utilized for buildings, not including land used for storm water management, wetlands and floodplains.
- B. Residential uses as utilized in Mixed Use shall mean
 - 1. Single family dwelling
 - 2. Nursing home
 - 3. Residential care facility
 - 4. Family adult day care home
- C. Residential single family dwellings may be attached or detached units. If the dwellings are attached, groupings of units shall be limited to no more than four per building. No second or higher floor units are allowed unless they are part of a first floor unit.
- D. Commercial uses as utilized in Mixed Use shall mean all those uses allowed in the district in which the land is located, with a single building size not exceeding 25,000 square feet.

§192-44 Permitted structures and uses

Add the following:

- Z. Single family dwelling, if part of a Mixed Use subdivision

§192-48 Permitted structures and uses

Add the following:

- GG. Nursing Home, if part of a Mixed Use subdivision
- HH. Residential Care Facility, if part of a Mixed Use subdivision
- II. Family Adult Care, if part of a Mixed Use subdivision
- JJ. Single family dwelling, if part of a Mixed Use subdivision

§192-52 Permitted structures and uses

Add the following:

- Y Residential Care Facility, if part of a Mixed Use subdivision
- Z. Single family dwelling, if part of a Mixed Use subdivision

§192-56 Permitted structures and uses

Add the following:

- GG Residential Care Facility, if part of a Mixed Use subdivision
- HH. Single family dwelling, if part of a Mixed Use subdivision

§192-60 Permitted structures and uses

Add the following:

- TT Nursing Home, if part of a Mixed Use subdivision
- UU Residential Care Facility, if part of a Mixed Use subdivision
- VV Family Adult Care Facility, if part of a Mixed Use subdivision
- WW. Single family dwelling, if part of a Mixed Use subdivision

Replace §192-77 Mixed use with the following:

§192-77 Mixed use

Mixed use developments shall be subject to the following requirements:

- A. Portions of buildings designated and approved for commercial purposes shall not be used for dwelling purposes and portions of buildings designated and approved for dwelling purposes shall not be used for commercial purposes.
- B. Dwelling units in any residential district shall not be converted or altered to allow other uses.
- C. This provision shall not be deemed to prohibit the use of a portion of the building or structure as living quarters for caretakers or attendants of places of worship or institutions where such uses are authorized in any zoning district.
- D. The procedure outlined in section §164-10 *Modifications of zoning provisions; cluster development* shall be utilized as provided for in NY State Town Law §278. The restriction in §164-10 C-(1) that it only applies to residential districts is removed as it applies to Mixed uses.
- E. Overall project density shall be based on the blended density parameters described herein in consultation with the Planning Board prior to preliminary Site Plan and Subdivision preparation. Commercial density is generally limited to 20% building coverage of its allocated share of project lands. Residential density is generally limited to four (4) dwelling units per acre of its allocated share of project lands.
- F. The Planning Board may, in addition to modifying the building bulk, placement and height rules as provided for in NY State Town Law §278, modify the parking requirements in a Mixed use development in accordance with the following:
 1. Reduce the parking count upon findings that the uses contemplated have utilization patterns that would allow adequate parking through the use of shared parking.
 2. Off site parking as described in §192-103 E-(1) may be anywhere within the subdivision upon findings by the Planning Board that it can practically be utilized.
 3. Reserve parking, as described in §192-103 E-(2) and limited to office use, may be expanded to include all uses authorized within the district in which the subdivision is located except for restaurants upon findings by the Planning Board that adequate parking will be provided.
 4. On street parking can be utilized to satisfy parking counts upon approval of the Town Engineer and the Department.
- G. Mixed use is intended to provide a development where residential and commercial uses are integrated into a pedestrian friendly neighborhood. Project amenities that address this objective include but are not limited to:
 1. Sidewalks throughout the subdivision, including walkways within parking lots,
 2. Architectural street lighting and furniture,
 3. Consistent architectural theme throughout,
 4. Extensive landscaped and green areas with feature areas for pedestrian and public use. Clustering of buildings will allow for large areas for walks, pathways and recreational areas Connection to adjoining properties and nearby uses and facilities.

Exhibit C
Proposed language changes to January 1, 2008 Zoning Code
August 18, 2008

Add the following to Chapter 172:

§172-7 Collocation requirements

1. Add at the end of Paragraph "B":

Additionally, the necessary land to accommodate the equipment of said additional users shall be under the control of the applicant. This control may be through ownership, lease or contract with a period of time no less than the control the applicant has over the land used for the equipment for subject application.

Note: This makes it clear that the collocation requirement on the tower also applies to the necessary land for the equipment of the additional three carriers.

Exhibit D
Proposed language changes to January 1, 2008 Zoning Code
August 18, 2008

The following modifications to Chapter 192 shall be made:

In each of the following paragraphs relating to **Lot area and yard regulation**: §192-42 H, §192-46 H, §192-50 H, and §192-54 H, replace the existing paragraph with the following”

“Height: There shall be no limit on the height of structures, except that the yards shall be increased such that no structure shall be higher than any plane from the lot lines inclining upward at a slope of one foot vertically for each one foot horizontally, until the horizontal distance is greater than or equal to 40 feet”

Note: This makes SBT, BT, B and O&P Districts the same as HT and Ind and limits the increase in yards to 40’.

The following modifications shall be made to Chapter 192:

§192-67-B Animal day care, kennel or shelter

Replace the current sentence with the following:

“Fenced areas are not permitted within 50 feet of any side or rear property line and/or in a front yard”

§192-68-B Animal hospitals, veterinary clinics.

Replace the current sentence with the following:

“Fenced areas are not permitted within 50 feet of any side or rear property line and/or in a front yard”

This corrects an error in drafting that allowed the fenced areas

§192-103-D Change the entries for “Stores and shopping centers” to:

0 - 50,000 square feet of gross floor area	1 for each 150 square feet of gross floor area
50,000 – 150,000 square feet of gross floor area	333, plus 1 for each 165 square feet of gross floor area in excess of 50,000 square feet
150,000 – 400,000 square feet of gross floor area	939, plus 1 for each 270 square feet of gross floor area in excess of 150,000 square feet
400,000 square feet of gross floor area and up	1865, plus 1 for each 285 square feet of gross floor area in excess of 400,000 square feet

This corrects that the table that was not changed when retail parking was changed from one car for each 140 square feet to 150.

§192-94 Corner Lots Add the following:

1. Preface the existing paragraph “B” with “ Except as provided below,”
 2. Add new paragraph D:
 - A. Where the corner lot is not in a residential district, but abuts a residential district, each yard not abutting a street but abutting a residential district shall be considered a rear yard.
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§192-106 Signs

1. Replace paragraph I (1) with the following:
 - (1) One commercial real estate sign per street frontage, on the subject lot for which a property or building sale or lease is available, subject to the following:
 - a. In residential districts, for residential uses and for all commercial property within an existing or occupied office park, shopping center or other multi-tenant facility; the sign(s) shall be less than two (2) square feet.
 - b. For other commercial uses not listed above, the sign(s) shall be less than 16 square feet.
 - c. All real estate sale or lease signs shall be removed within seven days of sale or lease
2. Replace paragraph I (2) with the following:
 - (2) One construction or renovation sign per property, no greater than 32 square feet per side, identifying the participants. Said sign is only allowed if the work in question was subject

to Site Plan Review by the Planning Board. Such sign shall be removed at the termination of the construction project.

§192-107 Excavations, site grading and filling

1. Change the title to: Excavations, site grading, filling and clearing.
2. Add as a new paragraph "C":

C. Clearing of land shall be regulated as follows:

1. Clearing is defined as the removal of living trees. Not included in clearing is the selective removal of trees as part of an approved forest management plan, the removal of dead trees or those trees posing a hazard, or the pruning of trees.
 2. In all non residential districts and residential R3 district, a Development Permit is required in order to clear land.
 3. In other residential districts, an owner is required to obtain a Letter of Determination from the Department prior to the clearing of his lot.
 4. In all non residential districts and residential R3 districts, site plan review by the Planning Board is required in order to clear land.
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Exhibit E
Proposed language changes to January 1, 2008 Zoning Code
Curbcuts & Driveways
August 18, 2008

Amend Chapter 161 Streets and Sidewalks by adding:

Article IV

Section 161-21. Purpose:

The Town of DeWitt has an interest and a responsibility to control the number, location, and dimensions of motor vehicle curbcuts. Such control is important to promote the health and safety of the Town's pedestrians, cyclists, and motorists. Limiting the amount of impervious surfaces on lots and Town rights-of-way will help to improve the management of stormwater quality and quantity. Uniform curbcuts and other improvements in Town rights-of-way will facilitate compliance with ADA requirements.

Section 161-22. Definitions:

For the purposes of this policy the following words, phrases, and terms shall have the meanings given herein.

Curbcut – The improved area of a public right-of-way plus ten (10) feet of the abutting lot used for the movement of vehicles and equipment between the right-of-way and lot which meets the design, construction and maintenance standards of the Town of DeWitt.

Department – The Department of Development & Operations of the Town of DeWitt.

Highway Department – The Highway Department of the Town of DeWitt.

Highway Superintendent - The elected manager of the Town Highway Department.

Highway Work Permit – An application provided by the Highway Department that, if approved, permits construction in or within ten (10) feet of a Town right-of-way.

Motor Vehicle – “vehicle” - A self-propelled wheeled conveyance such as a car or truck that does not run on rails and including any towed trailer used to transport goods or equipment.

Person – Any person, firm, partnership, association, corporation, company, or organization of any kind.

Public Road – All the land located within the boundary lines of any property owned or maintained by the Town or other government located in the Town for highway purposes. The “highway” includes a street, avenue, road, square, place, alley, lane, boulevard, concourse, parkway, driveway, overpass and underpass, and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, tree lawns, shoulders, and sidewalks.

Town – Town of DeWitt.

Town Engineer – The engineer duly appointed by the Town Board serving in the capacity of Town Engineer.

Section 161-23. Application of Rules:

These rules apply to lots and public roads and lands in the Town. The guidelines listed below are intended to assist the Highway Department and Department in applying uniform guidelines to the review, permitting and construction of new, modified, or repaired curbcuts, driveways or parking lots or areas along public roads. These guidelines do not replace other requirements of the Code, which shall be controlling if inconsistent.

Existing curbcuts, driveways, parking areas or lots, and public roads may remain until such time that repair, replacement or enlargement is proposed in which case said curbcuts, driveways, parking areas or lots shall be brought into conformance with this guideline to the maximum extent practical. Nothing shall prevent the improvement of a public road or right-of-way by a government to the specifications in these guidelines provided reasonable accommodation is made to integrate public improvements with that existing on abutting private land.

Section 161-24. Procedure:

Effective immediately, any person intending to establish or modify a curbcut, driveway or parking area or lot for a residence shall first submit a Highway Work Permit application with an accurate survey and other plans that fully explain and depict the proposal to the Highway Department. The Highway Department shall immediately forward a copy of the application to the Department for review and recommendation. Once such recommendation is received the Highway Department may approve, modify or disapprove the Highway Permit application. If the application is disapproved, the applicant shall be given written explanation of the decision within six (6) business days of the decision date.

An appeal of any decision of the Highway Department pursuant to this Chapter shall first be directed to the Department who, together with the Town Engineer and Highway Superintendent, will issue their majority decision within fourteen business days.

An affected applicant may appeal the determination of the three-member review committee to the Town Zoning Board of Appeals following the rules of Appendix A196 of this Code.

Section 161-25. Rules:

1. One curbcut is allowed per lot unless additional curbcuts are permitted through Site Plan Review by the Town Planning Board pursuant to Chapter 192. One additional curbcut is permitted for a single-family residence with 150 feet or more of frontage and two or more acres of land or for a two-family dwelling.
2. The width and alignment of the curb cut shall be determined by the parcel's garage or parking area or lot at the time of the highway modifications or application for a new curbcut.
3. Single and Two-Family Dwellings
 - a) The curbcut shall be no wider than ten (10) at the throat or beginning of the driveway for a one vehicle door garage or 18 feet for a two or more vehicle door garage and shall

- be aligned at a 90-degree angle from the road to the maximum extent possible.
- b) Curb cuts shall be located sufficiently far from intersections, curves in roads and crosswalks to provide sufficient site distance appropriate to the road based on NYS highway access minimum site distances .
 - c) A five (5) foot radius shall be provided on both sides of the curbcut as it meets the road.
 - d) Curb cuts, driveways, and parking areas or lots shall be located eight (8) feet or more from the side, front and rear property line(s).
 - e) Driveways shall maintain a uniform width extending directly from the curbcut radius into the lot and toward a garage or parking lot or area and only widening to the width of a garage door or to a parking area within twenty feet of the door or area.
 - f) Driveways should be graded and paved to allow uninterrupted use of sidewalks.
 - g) One improved parking area or turnout may be located in conjunction with the driveway. Such area may be no greater than twelve feet (12') wide by eighteen feet (18') long. It shall be located on the side-yard side of the garage.
 - h) Residential curbcuts, driveways and parking areas may be paved with all-weather pavement materials or approved gravel.
 - i) Paving or otherwise modifying a public road beyond that allowed in this Chapter is prohibited.
4. For other than single and two-family dwellings, curbcut design and construction rules shall be provided through Site Plan Review as provided in Chapter 192.

Section 161-26. Permit Required:

A Highway Work Permit prescribed by the Highway Department is required for any construction or modification of land within a public road or within ten (10) feet of the public road.

Section 161-27. Fees and Deposits:

An application fee of \$30 and a \$200 security deposit to guarantee the completion of work authorized in a Highway Work Permit shall be presented with the application.

Section 161-28. Penalties:

Any conviction for a violation of this article or of any regulation or provision hereof shall be punishable by a fine not to exceed \$100. A second conviction shall be punishable by a fine not to exceed \$200. A third conviction shall be punishable by a fine not to exceed \$500 or imprisonment for 15 days, or both.