

**LOCAL LAW #2 OF 2024
SIGNS**

Adopted March 14, 2024

§ 1 Title.

This local law shall hereafter be known as the "Sign Law for the Village of Horseheads."

§ 2 Purpose.

The purpose of this local law is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, outdoor business signs, and outdoor signs of all types, including digital signs. It is intended to enhance and protect the physical appearance of the community and to preserve the scenic and natural beauty of the areas in the Village and to provide a more enjoyable and pleasing community and to protect property values and to maintain a favorable economic and business climate consistent with the topography and the present use and development of lands in the Village and the needs of the Village. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way and blocking views. This local law recognizes the obligation to the Village for its people, to protect and preserve the community's environment and to provide open space and to curb the deterioration of the Village's natural beauty.

§ 3 Definitions.

As used in this local law unless the context indicates otherwise the following terms shall have the meanings indicated:

ADVERTISING SIGN

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

APPLICANT

Person requesting approval of a sign permit application. If not the owner, the applicant must have written authorization from the owner to submit the application.

BUSINESS SIGN

A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

CODE ENFORCEMENT OFFICER

The official designated by the Board of Trustees of the Village of Horseheads to administer the provisions of this local law.

DIGITAL SIGN

A sign that has or appears to contain movement or that appears to change, caused by a method other than physically removing and replacing the sign or its components, whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign may include any display that incorporates rotating panels, light emitting diodes manipulated through digital input, electronic message center, digital message board, or other similar methods or technologies that permit a sign face to present different images or displays.

ERECT

To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign including the painting of wall signs.

FACE OF A BUILDING

Any outer surface of a building.

FACING OR SURFACE

The surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

FLASHING SIGN

Any illuminated sign, other than a digital sign, on which the artificial light is not maintained stationary or constant in intensity and color at any time when such sign is in use. For the purpose of this local law, any revolving, illuminated sign shall be considered a "flashing sign."

FREESTANDING SIGN

Any sign or sign structure not attached to the exterior of a building.

FRONT OF A BUILDING

That face which contains the main entrance. If there is more than one (1) entrance, only one (1) face shall be deemed to be the "front."

BUILDING FRONTAGE

The linear frontage of a building measured along a public or private street or right-of-way between two (2) lines projected perpendicular from the street or right-of-way to the corners of the building.

ILLUMINATED SIGN

Any sign, other than a digital sign, which has any face or surface, character, letter, figure, design or outline lighted or illuminated internally or externally, whether the source of light or illumination is a part of the sign proper or otherwise.

LEWD

Crude and offensive in a sexual way; sexually unchaste or licentious; sexual in an obvious and rude way; pornographic or lascivious; inclined, characterized by or inciting to lust.

LOT OR PREMISES

A portion or parcel of land, considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belonging to the same.

MARQUEE SIGN

A sign that is part of or attached to a permanent roof like structure of a building and it projects beyond and extends along any portion of the building frequently extending over a sidewalk.

NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

Constitutes updated, uniform regulations in terms of performance covering all types of building construction as proclaimed by the State Building Code Council pursuant to its authority under Article 18 of the Executive Law of the State of New York.

OBSCENE

Of the portrayal or description of sexual matters, offensive or disgusting by accepted standards of morality and decency; a highly subjective reference to material or acts which display or describe sexual activity in a manner appealing only to the “prurient interest,” with no legitimate artistic, literary, or scientific purpose; calculated to shock the moral sense of a person by a disregard of chastity or modesty; offensive to morality or decency; causing uncontrolled sexual desire.

OTHER ADVERTISING STRUCTURE

Any marquee, canopy, awning or street clock.

OWNER

Person, firm, partnership or association, company, limited liability company, or corporation holding title to the land and/or building or structure upon which or to which said sign or advertising structure is erected, supported or affixed.

PERMITTEE

Includes any person, firm, partnership, association, corporation, company, limited liability company, or organization of any kind who either by ownership or lease holds title to the sign or signs on the premises and is the person to whom a permit under this local law has been issued or may be issued.

PERSON

Includes any person, firm, partnership, association, corporation, company, limited liability company, or organization of any kind.

POLITICAL SIGN

A sign that advocates action on a public issue, indicates a candidate for public office or expresses an opinion or belief.

PROJECTING SIGN

Any sign affixed to a building or other structure in a way that it extends beyond the line of the building or structure by more than twelve (12) inches.

REAL ESTATE SIGN

A temporary sign that directs attention to the rental, sale or lease of property on which the sign is located.

RIGHT OF WAY

Any government owned land or easement for the purpose of public transportation.

ROOF SIGN

A sign erected on or over the roof of the building.

SHOPPING CENTER OR MULTIUSE COMMERCIAL FACILITY

Any group of two (2) or more stores or commercial/business enterprises which share a common vehicular entrance or entranceways and for which there is provided common off-street parking.

SIGN

Any material, structure, device or other advertising structure or part thereof composed of lettered or pictorial matter or upon which lettered or pictorial matter is or may be placed when used or located out of doors or on the exterior of any building for the display of announcements, notices, directional matter or name, and includes sign frames, billboards, signboards, pole or pylon signs, ground signs, hanging

signs, projecting signs, illuminated signs, pennants and fluttering devices, and shall also include any announcement, declaration, demonstration, display, QR code, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public. However, a "sign" shall not include any display of an official court or required public official notices or signs nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate.

SIGN AREA

The surface area of the sign, including the frame, place or structure used to hold up any lettering or pictorial matter. In the event that a sign is irregular in shape, the area of the sign shall be taken as the area of the smallest rectangle that can be placed over the entire sign, including its lettering, devices, frame and decorative moldings along its edges and background, if of a different color than the predominant color surrounding the sign, except as otherwise provided herein. In the event that a letter or letters or other pictorial matter are placed as separate units on the background boards, the sign area shall be calculated as the sum of the areas of the background boards. In the case of a two-sided freestanding sign, the "sign area" is considered to be the entire surface area of one (1) face of the sign. The "sign area" of signs having more than two (2) sides is the sum of the surface area of all sides.

STREET CLOCK

Any timepiece or weather reporting instrument erected upon a standard or on the exterior of a building or structure for the convenience of the public and placed and maintained for the purpose of advertising a business.

STRUCTURAL TRIM

The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

TEMPORARY SIGN

A banner or sign, including a portable sign, constructed of cloth, paper, canvas, plastic or light fabric, wallboard, or other light impermanent material with or without frame which due to its construction or material is intended to be of a nonpermanent duration or is placed upon legs, skids, wheels or other nonpermanent erection/installation method. Generally, such signs are intended to be displayed for a limited period of time only, and include construction, political, real estate, and advertisements or announcement for special events, business openings, or promotions limited by time, garage sale, tag sale, yard sign, and the like. Signs shall not be considered temporary if they are effectively displayed on an ongoing basis, interrupted by short intervals when they are not displayed.

VILLAGE

The Village of Horseheads.

WALL SIGN

A sign attached parallel to and within 12 inches of the exterior wall of any building or structure in which is supported by the wall building or structure and which displays only one sign surface.

§ 4 Permit required.

No person shall erect any sign without first obtaining a permit from the Code Enforcement Officer, except in those cases where this local law specifically permits the erection of a sign without a permit.

§ 5 Application for permit.

Application for the permit shall be made to the Code Enforcement Department, in writing, in duplicate, upon forms prescribed and provided by the Department and shall contain the following information:

- A. The name, address, and telephone number of both the applicant and the owner of the property on which the sign is to be located.
- B. The location of the building, structure or land to which or upon which the sign is to be attached or erected.
- C. A detailed drawing or blueprints showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign; the position of lighting or other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings or structures and to any private or public street or highway.
- D. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected in the event that the applicant is not the owner thereof.
- E. A copy of any required or necessary electrical permit issued for said sign or a copy of the application for such permit.
- F. Such additional information as the Code Enforcement Officer may reasonably require in order to carry out the intent of this Local Law.

It shall be the duty of the Code Enforcement Officer, upon the filing of an application for any sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure and, if necessary, the building or lot upon which it is proposed to erect the sign or other advertising structure. If it appears that the proposed sign or advertising structure is in compliance with all requirements of this local law, the New York State Uniform Fire Prevention and Building Code and other laws and Laws of the Village of Horseheads, the Code Enforcement Officer shall then issue the sign permit.

§ 6 Duration of permit.

If work authorized under a sign permit has not been fully completed within six (6) months after the date of issuance, such permit shall be null and void.

§ 7 Permit revocable at any time.

All rights and privileges acquired under the provisions of this local law or any amendment thereto are merely licenses, revocable at any time by the Code Enforcement Officer or other person or body authorized by the Board of Trustees, upon failure of the holder thereof to comply with any provision of this local law, and all such permits shall contain this provision.

§ 8 General regulations.

The prohibitions contained in this section shall apply to all signs constructed and maintained in the Village of Horseheads:

- A. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain oscillating, flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or a nuisance.
- B. No part of a sign shall project more than two (2) feet from the front or face of a building, except as provided in § 9 herein.
- C. No signs shall be placed on the roof of any building.

- D. No portable or temporary sign shall be placed outside or on the front or face of any building except as provided in § 12 herein.
- E. No sign or part thereof shall contain or consist of a string of lights, banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices, revolving beacon, oscillating light, flashing light, strobe light, flashing wand or pointer or light designed to imitate any emergency vehicle warning light.
- F. No sign shall be erected or displayed on any public property, including the right-of-way of any street, roadway or highway.
- G. Advertising signs facing a public highway, street or road shall be no closer to one another than five hundred (500) feet.
- H. No advertising sign, including billboards, shall be located within an area of six hundred sixty (660) feet of the right-of-way of a federally aided primary highway, including the Southern Tier Expressway, NYS Route 17/Interstate 86.
- I. No advertising sign shall be located within three hundred (300) feet of a residential district nor within three hundred (300) feet of a school, library, church or hospital. Further, such advertising sign shall be so located that its message or legend shall not be legible from any residential district, school, library, church or hospital or portion thereof.
- J. No business sign shall be illuminated after 10:00 pm, unless the business being advertised is open and conducting business after 10:00 pm in which case the sign shall cease to be illuminated immediately upon the closing of the business.
- K. Marquee signs are not permitted.
- L. Searchlights are prohibited.

§ 9 Sign setback and height.

All signs shall conform to the following restrictions concerning setback and height:

- A. Every sign shall be setback the required front yard setback for the district in which the sign is located, with a required minimum setback of fifteen (15) feet. The setback shall be measured from the public right-of-way. In the event that the building sets closer to the right-of-way than the required setback for the sign, then the owner shall be allowed to erect a sign upon the building which shall not project more than three (3) feet therefrom.
- B. No sign shall be higher than 35 feet in any particular zoning district, except Residence Districts, wherein such sign is located and all signs or advertising structures are subject to further restrictions of height as herein specified or as specified in the Ch. 245, Zoning, of the Code of the Village of Horseheads.
- C. No sign in any Residential District shall exceed ten (10) feet in height.

§ 10 Permitted signs.

- A. The following signs may be erected in any district of the Village of Horseheads without a permit, shall not be erected in a street right of way, and except as otherwise provided below shall not exceed six (6) square feet in area:
 - (1) Signs advertising the sale, lease or rental of the premises upon which the sign is located. Such signs shall be removed promptly after the premises have been sold, leased or rented.

- (2) Signs denoting the names and address of the occupants of premises occupied for residential purposes, which signs shall not exceed two (2) square feet in area.
- (3) Directional (entrance/exit) signs on premises, each not exceeding two (2) square feet in area and which shall not include any trademarks or names of businesses conducted or products sold.
- (4) A sign or notice, having an area of twenty (20) square feet or less, erected by a public utility, necessary for the direction, information and safety of the public.
- (5) Signs advertising a home occupation, as approved by Ch. 245, Zoning, that shall not exceed two (2) square feet.
- (6) Signs or bulletin boards customarily incidental to places of worship, libraries, museums, charitable or religious institutions, social clubs or societies, which signs or bulletin boards shall not exceed fifteen (15) square feet in area and shall be located on the premises of the institutions.
- (7) Signs advertising real estate developments or subdivisions, during the period of development. These signs shall not exceed thirty two (32) square feet in area and shall advertise only the name of the contractor, owner, architect, engineer, developer or financial institutions, and such signs shall not be illuminated in any manner or exceed two (2) in number
- (8) Signs listing the contractor, owner, architect, engineer, developer or financial institutions, may be placed on premises where construction, repair or renovation is in progress. Such signs shall not be illuminated and shall be removed immediately upon completion of the project.
- (9) Occupational signs denoting the name and profession of an occupant in any commercial building, public institutional building or dwelling.
- (10) Memorial signs, name of building and date of erection when cut into any surface, constructed of bronze or other incombustible materials, historical markers, tablets, statutes and plaques.
- (11) Signs of or required by duly constituted governmental bodies and their agencies, where such signs are established in the interest of safety, convenience or welfare of general public; this shall include traffic signs, legal notices and warnings at railroad crossings.
- (12) Flags, emblems or insignia of a national, state or local government not exceeding 24 square feet.
- (13) Statues, plaques, and banners and emblems or name and meeting place signs of civic, philanthropic, educational or religious organizations or institutions not exceeding 10 square feet.
- (14) No trespassing signs, holiday decorations displayed in season, signs not visible outside of building and signs displayed strictly for the direction, safety or convenience of the public, including signs which identify restrooms and other similar facilities, parking areas and the like.
- (15) Signs not visible outside of a building.

§ 11 Signs in all districts.

Business and advertising signs are prohibited in all Residential and Planned Unit Development Districts as designated in Ch. 245, Zoning, of the Code of the Village of Horseheads, excepting only those permitted in § 10 herein and those permitted through site plan review or special use permit.

In all districts, except Residential and Planned Unit Development Districts and also excepting signs permitted in §10 herein, no signs shall be erected or maintained except as follows:

- A. Any commercial building (a building which is other than 100% residential) may have total sign area not

to exceed 1.5 square feet of signage to every one (1) linear foot of building frontage. Within the total allowed signage, each place of business may have no more than one (1) freestanding sign with a maximum height of twenty-two (22) feet. No individual sign may exceed a maximum square footage of fifty (50) square feet. In lieu of one (1) freestanding sign, a business is allowed two (2) wall signs. Such wall signs shall not exceed a total of fifty (50) square feet each. Where a building had frontage on more than one street, public highway or right of way one (1) wall sign on the face of the building facing each street, public highway or right of way shall be permitted, within the overall allowance for numbers of signs and total sign area, which maximums shall apply to the premises as a whole.

Freestanding businesses may have one (1) freestanding sign not to exceed 0.5 square feet to every one (1) linear foot of the building footage occupied by the business not to exceed seventy-five (75) square feet in area, a width of twelve (12) feet, and not to exceed a maximum height of twenty-two (22) feet. In addition, the freestanding business may have wall signs not to exceed 1.5 square feet of sign area to each one (1) linear foot of building frontage or of building frontage occupied by each business conducted on the premises, the total of both freestanding and wall-mounted signs is not to exceed a total area of two hundred (200) square feet.

- B. Shopping centers may have 1 freestanding sign located on the premises at each major entrance to the shopping center, not to exceed 3 such structures on the premises, at a location approved as part of the site plan review process. No freestanding sign structure shall exceed a maximum height of 35 feet. Each individual business within a shopping center may have a maximum sign area on the freestanding area of 0.5 square feet of sign to each linear foot of the building frontage occupied by that business. In addition, each business within a shopping center may have wall signs that do not exceed 1.5 square feet of sign to each one (1) linear foot of building frontage occupied by the business and not to exceed total area of 200 square feet. Where a building has frontage on more than one (1) public or private street, highway or right-of-way one (1) wall sign on the face of said building facing each street, public or private highway or right-of-way shall be permitted within the overall allowance for number of signs and total sign area, which maximums shall apply to the premises as a whole.
- C. Goose neck reflectors are permitted provided however that the reflectors are equipped and maintained with proper lenses concentrating the illumination upon the area of the sign so as to prevent glare on the street or adjacent property.
- D. No sign shall be located within the following prohibited area at the intersection of two public streets, right of ways, or highways. The prohibited area is described as follows: that area being within a rectangle measured and being 20 feet on each side extending along both highway limits from the point of intersection of the highway limits and, further, extending on lines parallel to the respective highway limits and being 20 feet therefrom until they intersect. The entire area enclosed thereby is the prohibited area.

§ 12 **Temporary signs.**

All temporary signs shall be erected only as follows:

- A. All temporary signs, which are not advertising or business signs, such as political, civic, non-commercial, not profit making signs, and other signs of a similar nature may be erected without a permit for a period not to exceed thirty (30) days, provided that the consent of the property owner where the sign is erected is obtained.
- B. All advertising or business signs of a temporary nature or construction may be erected, with a permit and paid fee, for a period not to exceed a total of thirty (30) days in any calendar year, provided that the written consent of the property owner is obtained. Upon the expiration of said thirty-day period, such sign shall be removed by the person, persons, firm or corporation who, or at whose request and direction, caused the same to be erected; and the person, persons, firm or corporation shall cause to be returned to the Code Enforcement Officer for the Village of Horseheads a duplicate copy of the permit

with a certification thereon as to the date of removal of said sign.

- C. Immediate removal of the signs or issuance of permits on all temporary signs within thirty (30) days of effective date of this Local Law, notwithstanding any contrary provision of this Local Law.
- D. The maximum size of a temporary sign in a Residential or Planned Unit Development District shall be four (4) square feet and in all other districts shall be four (4) square feet.
- E. Such signs shall not be attached to fences, trees, utility poles or the like. Further such signs shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Such signs shall not be erected within the right-of-way of any street or highway and shall conform to the setback requirements in § 8 of this Local Law. Upon the expiration of the thirty-day period or within five (5) calendar days after completion of the event for which the sign was installed, whichever shall come sooner, such sign shall be removed by the person, persons, firm or corporation who, or at whose request and direction, caused the same to be erected or may be removed and disposed of by the Village. Furthermore, signs may not be erected earlier than thirty (30) days prior to the first day of the special event, drive or election being publicized.

§ 13 Digital Sign Standard.

Digital signs are allowed in the C-1 Neighborhood Commercial, C-2 Hanover Square, C-3 Highway Commercial, M-1 Industrial and P-1 Planned Unit Development Districts subject to the following conditions. Digital signs and messages are prohibited on all other sign types and in all other zoning districts.

- A. There may be no more than one programmed digital sign on a lot. There may be no more than one automated or interactive digital sign for each business on a lot.
- B. A digital sign, other than a digital billboard, may not allow the display or message to change more frequently than once every sixty (60) seconds, with transition period of one (1) second or less. Messages may not contain the appearance, visual special effects, fading, dissolving, flashing, motion or animation nor during the transition between successive messages.
- C. A digital sign must have installed an ambient light monitor (auto dimmer), which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this Local Law. Certification must be provided to the Village demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Village in its reasonable discretion, at the owner's expense, to ensure that the specified brightness levels are maintained at all times.
- D. Maximum brightness levels for digital signs shall not exceed 5,000 nits or "Candelas per Square Meter" or (cd/m²) when measured from the signs face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 280 nits or "Candelas per Square Meter" or (cd/m²) when measured from the signs face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service.
- E. Written certification from the sign manufacturer must be provided at the time of application for a sign permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this section, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.
- F. Digital signs may not display messages about goods or services that are not sold and delivered or provided on the premises where the sign is located. The foregoing notwithstanding, a digital sign may display messages about public emergencies and public events.

- G. The digital sign must be located no closer than 500 feet from a residentially zoned property.
- H. The digital display shall not display light of such luminance so as to cause glare or otherwise impair the vision of a driver, or which results in a nuisance to a driver or abutters on neighboring properties.
- I. Other requirements. The use, size, and location of digital signs must comply with all other relevant regulations and laws of the Village.
- J. If the digital signs malfunction, the display must automatically go dark.
- K. The Planning Board shall have complete discretion to waive or vary any aspect of this section.
- L. No business sign shall be illuminated after 10:00 pm, unless the business being advertised is open and conducting business after 10:00 pm in which case the sign shall cease to be illuminated immediately upon the closing of the business.

§ 14 Murals

- A. Legislative findings. Murals have been found to add to the character of the community and quality of life. They promote a walkable community. Promoting public art provides an opportunity to view and enjoy the art, by creating a pedestrian-friendly focal points, respectful of existing buildings, neighborhoods, and open spaces. Murals can also help to promote the community and provide a focal point or destination within the Village. It is therefore the determination of the Board of Trustees to promote public artwork and to collaborate and cooperate with various individuals, groups, organizations, and associations concerned with art and culture and to promote the arts within the Village.

The purpose of this section is to describe the form, site layout, application process, review for murals to ensure that any mural will comply with vision of the comprehensive plan, promote the walkability of the Village, and improve the quality of the community while being mindful of the history and overall character of the Village.

- B. Definitions. The following definitions are applicable to this section in addition to those in §3 herein.

Artist. A person who creates artwork as a profession and/or has a reputation within the art community as having talent in producing artwork

Applicant. Person requesting approval of a mural application. If not the owner, the applicant must have written authorization from the owner to submit the application.

Installation. The process of putting up a mural, including, but not limited to, scaffolding, preparing, sketching, painting, sealing the mural design, placement of any permitted plaque, removal of scaffolding, and other equipment from the site of the mural.

Mural. A picture, design, or decorative treatment painted on or otherwise affixed to and covering a large portion of a wall surface, including sculpture and sculptural treatments of solid elements for the purpose of this definition. A painting that is applied to or made an integral part of a wall, ceiling, or other permanent surface usually in a public space. It can use different techniques such as fresco or mosaic, it does not contain words, logos, trademarks or graphic representations that identify or advertise a business. Murals may be erected on any wall of a structure. Generalized depictions of types of goods, commonly used symbols other than trademarks, brand names and logos and scenes which do not specifically illustrate commercial activity may be allowed in murals.

Owner. The person on title of the property or site on which the mural would be installed as shown on deed recorded in the Chemung County Clerk's Office.

Wall. The side of a building or structure.

C. General Regulations.

- a. A mural may be installed on private or public nonresidential property only after the issuance of a permit from the Code Enforcement Officer. The requirements of this section shall not apply to residential property. No murals are allowed on residential property.
- b. Murals may contain only images and depictions that are not lewd, obscene, indecent, or patently offensive. Outside of the mural artist's name or signature, and the date, a mural may not contain any writing.
- c. No wall shall have more than one mural.
- d. The name of the artist creating the permitted mural and the name of a sponsor may be displayed on an adjacent plaque that is no more than eight (8) inches in height and eight (8) inches in length provided that such plaque is made a part of the mural application.
- e. Maintain and repair, see D.b.vi.4 below

D. Permit Application.

- a. Before a mural may be installed, an application for mural installation (the "application") shall be submitted to the Code Enforcement Officer.
- b. The application form shall require the following information:
 - i. The property address and parcel identification number where the proposed mural will be located;
 - ii. A site plan setting forth in detail where the mural is to be located on the property, its overall dimensions, the materials/medium to be used, and the location of any plaque identifying the artist and/or the sponsor;
 - iii. The name and contact information of the artist and the artist's statement describing the proposed mural;
 - iv. The name and contact information of the applicant, if different from the artist;
 - v. A photograph, detailed colored sketch, or reasonably accurate graphic of the proposed mural;
 - vi. A notarized statement signed by all property owners of record that they:
 1. Have reviewed the application, including the photograph or detailed reasonably accurate graphic of the proposed mural;
 2. Agree to the installation of the proposed mural on their property pursuant to the details set forth on the application;
 3. Approve the submission of the application; and

4. Assume responsibility for the maintenance and upkeep of the mural and will remove said mural if directed by the Village.
 - vii. The resume of the proposed mural's artist and, if attribution is to be made on the permitted plaque, the text of such attribution.
 - viii. The name of any sponsor of the mural, if the sponsor is to be identified on the permitted plaque.
 - ix. A waiver that the mural artist waives all rights and claims over and to the mural in the event the location where the mural is located is to be demolished by the Village.
 - x. Detail including but not limited to, the material/medium, colors, method for application, estimated time to complete the mural, and details about installation (scaffolding, electrical wiring, etc.) The Code Enforcement Officer and/or Traffic Commission may require additional information.
- c. The Code Enforcement Officer shall forward a copy of a completed application to the Planning Board for review and recommendation and shall inspect the proposed location to determine if any repairs need to be addressed and if the proposed location appears to be structurally sound.
- i. Compliance. The Planning Board shall determine whether a proposed mural is in compliance with this Local Law and any other applicable laws and regulations, and whether the application should be approved, denied, or modified.
 1. A final decision by Planning Board regarding the mural shall be transmitted in writing to the applicant.
 2. Where an applicant disagrees with the final decision of the Planning Board, and does not wish to amend the application or obtain a sign permit, the applicant may appeal the determination, within thirty (30) days of the date that the final decision is transmitted to the applicant in writing, to the Board of Trustees, whose determination shall be final.
 - ii. Traffic hazard determination. The Planning Board shall determine whether the proposed mural may result in a distraction or hazard to drivers.
 1. Within thirty (30) days of the receipt of an application, the Traffic Commission shall make a determination of whether the proposed mural is a traffic hazard or will create an undue and dangerous distraction to motorists.
 2. The Planning Board shall provide written comments and its determination for approval or denial to the Code Enforcement Officer within 10 (ten) days of their review meeting.
 3. Where an applicant disagrees with the final decision of the Code Enforcement Officer and the Planning Board that the proposed mural creates a traffic hazard or an undue and dangerous distraction to motorists and does not wish to amend the application, the applicant may appeal the administrative determination by filing an appeal of the administrative decision within thirty (30) days of the date that the final decision is transmitted to the applicant in writing, or by invoking another appropriate remedy in a court of competent jurisdiction.

4. The Planning Board shall provide written comments and its determination for approval or denial of the mural installation permit to the Code Enforcement Officer within ten (10) days of the meeting in which the review of the application occurs.
5. If recommended for approval by the Planning Board, the Code Enforcement Officer shall issue the permit for mural installation.
6. If not approved by the Planning Board, no permit shall be issued until requested modification are made to the application and resubmitted or the applicant moves forward with a sign permit application.

E. Duration.

A mural permit shall be valid for one (1) year from the date of issuance, provided no work has begun and there are no changes to the design of the mural or any other information contained on the mural or plaque.

If no work has begun within one hundred eighty (180) days from issuance, the permit shall be deemed to be abandoned and approval shall be withdrawn. Written notification shall be sent to the owner listed on the application.

If work has begun but there has been no work for one hundred eighty (180) days, the permit shall be deemed to be abandoned, and approval shall be withdrawn. Written notification shall be sent to the owner and may include instruction to paint over any work completed or the owner shall be in violation.

If the mural is not completed within the time specified in the permit, or under the terms described in this section, the owner shall be responsible for painting over any uncompleted work or any other directive of the Code Enforcement Officer.

F. Inspection.

Upon complete of a mural, the applicant shall inform the Code Enforcement Officer, and the Code Enforcement Officer will conduct an inspection to ensure the mural is in compliance with this section and any other applicable law, rules, and regulations. The Code Enforcement Officer shall take at least one photograph of the mural with sufficient detail to identify the site, mural size, mural location, and mural image consistency with the permit application. The Photograph(s) taken shall be filed with the Village.

G. Penalty

The owner shall be responsible to maintain the appearance of the mural in good repair. Failure to maintain the appearance of the mural, shall be considered a violation and punishable by a fine of one hundred dollars (\$100.00) per day.

H. Revocation

A permit grant by the Village under this section can be suspended or revoked, upon written notice to the applicant when:

- a. The permit is issued in error;
- b. The permit is issued on the basis of incorrect information supplied by the applicant; or
- c. The permit is issued in violation of any of the provisions of this section or other applicable law, rules, and regulations.

§ 15 Revocation of permit and removal of signs.

All signs shall comply with the provisions of this local law or be removed or altered to comply within thirty (30) days after written notification by the Code Enforcement Officer.

A. Any sign which advertises a business no longer in existence on the premises or product no longer sold

or which does not have a valid permit shall be removed or eradicated by the owner of the land upon which the sign is located.

- B. No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this local law. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted and free from all hazards, including but not limited to holes in the sign, faulty wiring and loose fastenings, and the sign must otherwise be maintained at all times in good repair and shall not be detrimental or dangerous to the public health or safety. All signs shall be erected and maintained in conformity with the New York State Uniform Fire Prevention and Building Code.
- C. No sign or advertising structure shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.
- D. In the event of failure to comply with the requirements of said notice within the period required therein, the permit for such sign shall be automatically revoked, and such sign shall be removed by the owner thereof or by the owner of the land on which such sign is located.
- E. If the permittee or owner fails to remove or alter the sign or other advertising structure so as to comply with standards herein set forth within thirty (30) days after such notice, such sign or other advertising structure may be removed or altered to comply by order of the Code Enforcement Officer, and the expense thereof shall be levied against the owner of the land, building or structure to which said sign was attached. Thereafter, the Code Enforcement Officer shall refuse to issue any permit to any permittee or owner who refuses to pay the cost so assessed until the same is paid.
- F. Notwithstanding anything hereinbefore contained, if the Village Manager, Code Enforcement Officer or Village Director of Public Works shall determine that any sign is unsafe or is an actual or imminent traffic or other hazard or danger to the public, such official may require that such sign be either removed or corrected to remove such hazards or dangers within a shorter period than is above provided, but not less than two (2) days. If said sign is not removed or repaired within the required period, the Code Enforcement Officer may remove said sign and any permit for such sign shall be revoked, or he may repair said sign.
- G. In the event of the removal/repair of a sign erected, altered, maintained or needing repair in violation of this local law, at the sole discretion of the Village Manager all costs and expenses incurred in the removal or repair of such sign shall be collected from the owner of the land on which the sign is located by adding that charge to and making it a part of the next annual real property tax assessment roll of the Village. Such charges shall be levied and collected at the same time and in the same manner as Village assessed taxes and shall be paid to the Village Clerk to be applied in reimbursing the fund from which the costs were paid. Prior to charging such assessments the owner of the land shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Board of Trustees to the proposed real property assessment, at a date designated in the notice, which shall be no less than fourteen (14) days after its mailing. The owner of the land shall be responsible for reimbursement for the Village's costs and expenses, including attorney's fees.
- H. If it is determined that any sign is a source of immediate peril to any person or property, such sign may be removed summarily and without notice by the Code Enforcement Officer, and the costs and expenses thereof shall be collected or assessed as provided above.

§ 16 Notices.

Any notice or written demand required to be served hereunder shall be delivered either personally or sent by mail to the owner or permittee of the sign or the owner of the land upon which the sign is erected, or to both, as their names and addresses appear in applications for a permit for such sign, real property tax records or in

any other documents on file with the Code Enforcement Officer setting forth the names and addresses of the owners or permittees of the sign and of the owner of the land upon which the signs are to be erected. The period stated in any notice or written demand shall commence from the date on which any notice is delivered personally to any such owner or, if mailed, the date on which such notice is deposited in a duly maintained post office box or official branch office of the United States Postal Service. Any such notice may be delivered to any agent or representative of the owner or employee of the owner. The owner of any lands or sign may notify the Code Enforcement Officer in writing of any change in address to which any notices may be sent.

§ 17 Nonconforming signs.

Any sign which has been in existence by duly issued permit prior to the effective date of this local law and which does not conform to the provisions and standards of this local law and any amendments thereto, shall be removed within three (3) years from the effective date hereof, unless within such period, such sign has been changed or repaired in a manner which will meet the requirements of this local law, and provided that such sign is not otherwise prohibited by this local law.

§ 18 Review and appeal.

Any person aggrieved by any decision of the Code Enforcement Officer relative to the provisions of this local law may appeal such decision to the Zoning Board of Appeals as provided in Chapter 245, Zoning, Article XXII of the Code of the Village of Horseheads and shall also comply with all procedural requirements prescribed by such Zoning Board of Appeals; in addition, the provisions of Article 7 of the Village Law pertaining to appeals to a Board of Appeals shall apply to the appeal permitted herein.

The appeal shall include payment of a fee of \$250.00 to defray the cost of the required legal notice and written notice to all property owners within 200 feet of the boundaries of the proposed sign location. However, when any variance, review, or appeal relative to the provisions of this Local Law is requested, the Zoning Board of Appeals shall not take action until a report is received from the Planning Board. If, however, no report is received within forty-five (45) days after referral, then approval by the Planning Board shall be presumed, and the Zoning Board of Appeals shall act accordingly. In making any determination or decision with respect to any proposed sign, any Village officer or any board having jurisdiction shall be guided by the general purpose of this Local Law, and shall also consider the following:

- A. Size of sign. The purpose for which the sign is erected and the distance from which the sign is intended to be or can possibly be read, and the character of adjacent streets shall be taken into consideration. In all cases, the smallest sign that will suit the purpose shall be the guide, taking into account the legitimate commercial or other interests which are intended to be promoted by the sign and the speed limits and traffic conditions on adjacent streets.
- B. Number of letters. A sign with only a few letters need not be as large as one with many letters to be seen from the same distance.
- C. Other signs. The context of existing signs in the vicinity of the proposed sign shall be taken into consideration.
- D. The character of the neighborhood. The proposed use shall not be detrimental to the general amenity or neighborhood character so as to cause a devaluation of neighboring property or material inconvenience to neighboring inhabitants or material interference with the use and enjoyment by the inhabitants of the neighboring property.
- E. Public interest. The protection of the public interest and the desirability of maintaining open spaces, views and vistas shall be considered insofar as possible.

§ 19 Legal fees.

Whenever any action at law is brought to collect a sum of money, the defendant shall pay attorney's fees, if any.

§ 20 Penalties for offenses.

A violation of the provisions of this local law is hereby declared to be an offense, punishable as set forth in Chapter 1, Article II, General Penalty of the Code of the Village. However, for the purpose of conferring jurisdiction upon the courts and judicial officers generally, the owner, general agent, contractor, lessee and/or tenant of any part of a building or premises in which part such violation has been committed or shall exist and the general agent, architect, builders, contractor or any person who knowingly commits, takes part or assists in any such violation shall be deemed guilty of misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violation. Each week's continued violation shall constitute a separate additional violation.

§ 21 Fees.

Fees relating to these sign regulations shall be as set forth from time to time by resolution of the Village Board of Trustees and shall be paid before being granted a permit.

§ 22 Severability.

If any portion, subsection, clause, phrase, or portion thereof of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

§ 23 When Effective.

This Local Law shall become effective immediately upon its filing in the Office of the Secretary of State.