

August 4, 2011

VILLAGE OF HERKIMER, NY

LOCAL LAW AMENDING THE LOCAL ORDINANCES TWO OF 1961

And

LOCAL LAW NO. 3 OF THE YEAR 2009

LOCAL LAW NO. 4 OF THE YEAR 2012

TO AMEND LOCAL LAW NO 3 OF THE YEAR 2011

Regulating the Construction, Erection, Maintenance and Use of Signs

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Be it Enacted By The Board Of Trustees Of The Village Of Herkimer As Follows:

ARTICLE I

Section 1. USER GUIDE

A. Sign Matrix – Article I, Section 7 Page 5

1. Use Temporary/Commercial & Non-commercial Signs

B. Sign Matrix – Article I, Section 8 Page 5

1. Use Permanent Signs

Section 2. PURPOSE: The purpose of this ordinance is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space and curb the deterioration of the community's appearance and attractiveness.

Section 3. SCOPE & EXCLUSIONS:

This section applies to all signs erected or altered after the effective date of this code. This does not apply to the following:

1. Traffic signs, directional signs and signs displaying a public service message installed by a governmental agency.
2. Point of purchase advertising displays such as product dispensers.
3. National flags.
4. Gravestones
5. Historical site plaques and signs integral to an historic building.
6. Structures or improvements intended for a separate use, such as phone booths, Goodwill containers and newspaper recycling boxes.
7. Building addresses with numbers and letters not more than 10 inches in height.

Section 4. UNIFORM SIGN & UNIFORM BUILDING CODE – COMPLIANCE REQUIRED

1. General – Each sign erected or altered after the effective date of this code must comply with the provisions of the Uniform Sign Code and the Uniform Building Code as adopted by the Village of Herkimer.
2. Conflict of Provisions – If any provision of this chapter conflicts with the Uniform Sign Code or the Uniform Building Code, the provision of this chapter will govern.

Section 5. DEFINITIONS:

SIGN: The word “sign” as used in this ordinance shall mean and include any device or structure maintained or used in the nature of an advertisement, announcement or direction that is attached flat against the exterior walls of buildings or projecting in, on or over the sidewalk, street or public property of the Village of Herkimer. **Each face will be considered a sign.**

FRONT OR FACE OF A BUILDING as used in this ordinance shall be construed to mean the general outer surface of any main wall of the building abutting upon the street, except that in the case of a bay window projecting beyond any such wall, the outer surface of such window shall be considered the face of the building at that point.

RESPONSIBLE PERSON:OR PARTIES: as used in this ordinance shall mean and include one or more persons, of either sex, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

ANIMATED SIGN: as used in this ordinance shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

BANNER: as used in this ordinance shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BILLBOARD: as used in this ordinance shall mean any free standing commercial sign located on a plot or parcel other than that where the advertised business is conducted, also known as off-site or non accessory billboard.

CHANGING MESSAGE CENTER: means an electronically controlled message center that displays different copy changes on the same lamp bank.

CANOPY SIGN: as used in this ordinance shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

FREE STANDING SIGN: as used in this ordinance shall mean any sign not affixed to a building or structure.

ILLUMINATED SIGN: as used in this ordinance shall mean and include any letter, word, model, sign, device or representation, used in the nature of an advertisement, announcement or direction, illuminated by electricity or gas; including any extending over the sidewalk.

MANSARD ROOF: Means a sloped roof or roof-like façade architecturally able to be treated as a building wall.

MARQUEE: means a permanent structure attached to, supported by, and projecting from a building and providing protection from the weather elements.

MARQUEE SIGN: any sign which forms part of or is integrated into a marquee and which does not extend horizontally beyond the limits of such marquee.

MOBILE SIGN: Any sign not designed or intended to be anchored to the ground and designed and intended to be capable of being transported over public roads and streets, whether or not it is so transported.

PARAPET: means a false front or wall extension above the roofline.

PEDESTAL SIGN: a permanent sign installed at a given location on a structure specifically erected to hold such sign or to the ground.

PENNANT: Any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series designed to move in the wind.

PERMANENT SIGN: as used in this ordinance shall mean any sign intended and installed to be permanently in place at a given location by means of suitable fastening to a building or to a structure specifically erected to hold such sign(s) or to the ground.

PORTABLE SIGN: Any sign or advertising device not designed to be permanently attached to a building or permanently anchored to the ground.

PROJECTING SIGN: Any sign which projects from the exterior of a building.

RIGHT-OF-WAY: A public street right-of-way; that area located between the curb and the abutting private property; or where no curb exists, between the edge of the paved travel lane or paved shoulder and the abutting private property:

ROOF SIGN: a sign erected upon or above a roof or parapet of a building or structure. Mansard roof signs may be considered as wall signs. Any sign in which all or any part extends above the wall of any building or structure, where said wall does not extend above the roofline. In no event shall a sign permitted as defined by “wall sign” extend beyond the actual wall surface.

TEMPORARY SIGN: Temporary Sign means any sign, commercial or noncommercial constructed with or without frames; intended to be displayed for a limited time only.

WALL SIGN: A permanent sign attached to the exterior of al building façade.

Section 6. GENERAL REGULATIONS: The following regulations shall apply to all signs in all districts.

A. No permanent sign shall be erected, altered or reconstructed without the issuance of a sign permit; and the application for the permit shall be reviewed by the Codes Enforcer unless as indicated in Article I, Section 7 Sign Matrix or Article I, Section 8 Sign Matrix..

B.. All signs shall be constructed in accordance with the New York State Uniform Fire Prevention and Building Code, shall be maintained in good condition and shall be kept free of defects and hazards. No sign shall obstruct any fire escape (or door leading thereto) or window, and no sign shall be attached to a fire escape.

C.: Schedule of Locations of Signs

1. No Sign shall be erected or placed on the public right-of-way. Signs shall not be erected or placed on public property to include poles installed by government agencies, utility poles, traffic signs, trees, rocks or other natural features.
2. Said Sign shall not be placed in a position that will obstruct or impair vision or traffic in any manner or create a hazard or disturbance to the health and welfare of the public.
3. The established districts in the Village of Herkimer (Article V, Section 1) are represented by Sections in Appendix A

D. Illumination of signs, when permitted,

1. The area, brilliance, character, color, degree, density, intensity, location and type of illumination shall be the minimum necessary for the intended purpose of such illumination, consistent with public safety and welfare.
2. Shall be so arranged so as to prevent direction thereof upon a public street or adjacent premises that may constitute a traffic hazard or public nuisance.
3. All sources of illumination shall be shielded or directed in such a manner that the direct rays there from are not cast upon any property other than the lot on which such illumination is situated.
 - a. No person shall construct, establish, create or maintain any stationary exterior lighting or illumination system or any interior system which is intended to be viewed from a street, highway or other public thoroughfare used for vehicular traffic; which system contains or utilizes:
 - i. any exposed incandescent lamp with wattage in excess of 25 watts
 - ii. any exposed incandescent lamp with a metallic reflector
 - iii. any exposed incandescent lamp with an external reflector
 - iv. any revolving beacon light
 - v. any continuous or sequential flashing operation, except as allowed for changing message center signs in Section 6E of this ordinance.
2. **The provisions of subsection D(1) of this section shall not apply to**
 - a. Lighting systems owned or controlled by any public agency for the purpose of directing or controlling navigation, traffic or highway or street illumination.

E. Changing Message Center Signs: Changing message center signs shall comply with the following requirements.

1. **Where Permitted:** Signs are only permitted within the Village Limits along the Rts 5 and Rte 28N Corridor and Mohawk Street up to the Intersection of Steele Street requiring a permit as provided herein. Identified in Appendix A as Zone 1
2. **Where Prohibited:**
 1. a. Signs are prohibited in C1, C2 & C3 Districts, Zones 2 and 3 except as permitted in Item #1.
 2. b. Signs are prohibited in R1,R2, R3, R1-P & R2-P Districts, identified in Appendix A as Zone 4
3. **Number:** No more than one changing message center sign per street frontage shall be permitted on each property.
3. **Display:**
 - a. The display of a sign shall not change more rapidly than once every one and one-half seconds.
 - b. No scrolling message shall require more than five seconds to be displayed in its entirety.
4. **Light Levels:** Changing message center signs at no time be operated at a brightness level greater than the manufacturer's recommended levels. A copy of same shall be made available to the codes officer with permit application
 - a. All lighting shall be arranged to reflect away from any residential zone. The Codes officer shall have the authority to require a sign permit application include information to ensure the intent of this requirement is met.

5 On-Premises Advertising Only: Changing message center signs shall only advertise on-premises products and services or display public service messages or messages on behalf of NFP Organizations.

6. Change of Copy: The holder of a permit, for the duration thereof, shall have the right to change the advertising copy on the structure or sign for which the permit was issued without being required to pay any additional fees.

F.: No sign shall be audible.

G.: No sign shall be painted directly upon the exterior walls of any structure.

H. No sign shall be mounted upon rooftop of any building except buildings of one story. (12 ft. in height).

I. A. No free standing, portable sign shall be allowed within any zoning district of the Village of Herkimer; except upon obtaining a permit unless as indicated in the Article I, Section 7 & Section 8 Sign Matrix,

1. Portable Signs Being:
 - a. Sandwich board Signs
 - b. A-frame signs
 - c. Signs on Wheels
 - d. Leaning Signs
2. Temporary Signs Being
 - a. Real Estate Promotion
 - b. Commercial Promotion
 - c. Non-Commercial
 - d. Construction

NonConforming Signs: Permanent signs established legally prior to the adoption of the ordinance codified in this ordinance that do not conform to the regulations of this ordinance with regard to number, size, height or location shall be allowed to remain as legal nonconforming signs except as follows:

1. Whenever the use of a building changes.
2. When there is an expansion of an existing building; the requirements of this section shall apply only if there is an increase in floor area of 25 percent or more (including the cumulative increase of previous expansions after the effective date of the ordinance amending this). :

Section 7. Use of Temporary/Commercial & Non Commercial Signs

- A. The chart below establishes regulations that apply to numerous signs of a temporary or special nature or purpose. These signs shall be permitted in addition to the signs permitted in Portable Signs and shall be subject to the requirements set forth in the following chart. Except as specifically stated in the chart, the signs in the chart are not subject to the regulations of Article II, Section 1 Permits.
- B. No temporary sign shall be posted or placed upon public property;
- C. No temporary sign shall be placed in the public right-of-way

TYPE OF SIGN	MAX # OF SIGNS	MAX SIGN AREA	PERMITTED LOCATION	PERMITTED DURATION OF DISPLAY	Permit Status
Commercial Temporary					
Real Estate, On-Site- For Sale or Rent	For each dwelling	Dwelling units: 6sq ft per sign face. Height from ground 34"	Subject Property	Must remove when property is sold or rented	No Permit Required
Developments, On Site - For Sale or Rent	For Each Development	32sq ft per sign face per property	Subject Property	Must remove when property is sold or rented	No Permit Required
Construction	1 per property	32 sq ft per sign face	Subject Property	Shall not be displayed prior to issuance of a building permit. Must be removed prior to issuance of a certificate of occupancy	No Permit Required
All Other Commercial	No maximum	<u>6sq ft per sign face height from ground 34"</u>	Subject Property	Must remove at end of use, event or condition	No Permit Required
Non-Commercial Temporary	No maximum	<u>6sq ft per sign face Height from ground 34"</u>	Subject property With consent of property owner	Must remove at end of use, event or condition	No Permit Required

Section 8. Use of Permanent Signs

TYPE OF SIGN	MAX # OF SIGNS	MAX SIGN AREA	PERMITTED LOCATION	PERMIT STATUS
Permanent Sign	1 per Property			Permit
Projecting or Marquee	1 per/ pedestrian or vehicular entrance	4 sq ft per sign face	Subject property	Yes
Pedestal Sign	1 per Property	200 sq ft.	Subject Property <u>Not permitted in R-1, R-2, R-3, R1-P & R2-P zones</u>	Yes
Portable Sign	1 per Property	See Section 6I	Subject Property	No
Wall Sign	1 per Property	See Section 9	Subject Property	Yes

A. Nonconforming signs, which are in violation of any provision of this section, shall be brought into conformance upon written notice of violation to the responsible party by the Codes Officer. If the responsible party fails to remove or correct the sign violation within seven (7) calendar days after being served with notice of the violation, the Code Officer, Police Officer or member of the Department of Public Works shall have the authority to remove the violative sign(s), Codes Enforcement Officer to assess the charges for such removal against the responsible party.

For the purposes of this section, the “**responsible party**” shall be the owner or operator of the subject property upon which the sign violation occurs.

B. Notwithstanding the other provisions of this section, the Codes Officer, Police Officer and member of the Department of Public Works may remove any temporary sign which; is in violation of any provision of this chapter and is located in the public right-of-way or on public property. The Codes Enforcement Department to notify the owner of the sign if so identified on the sign the sign is located at the Police Department, and Codes Enforcement Officer may assess the costs of removal of such signs against the responsible party.

Section 9: Sign Maintenance & Removal

1. Signs shall be constructed of durable materials and shall be maintained in good condition.
2. All signs must be kept in a safe manner at all times. Damaged or deteriorated signs must be repaired within 30 days of notification by the Code Officer. The area surrounding ground-mounted signs must be kept free of litter and debris at all times.
3. Removal: Unless otherwise specified in this code, the applicant or property owner must remove all nonconforming signs within 14 days and all conforming signs within 60 days of the date of the closure or discontinuance of the business, use or event with which the signs were associated. Refer to Article I, Section 6.

Section 10: Sign Height and Dimensions:

The permitted height of signs for each type of sign is listed below:

1. **Wall-Mounted, Marquee and Projecting Signs:** Shall not project above the roofline of the building to which they are attached.
2. **Marquee Signs or Projecting Signs:** Shall not extend further from a building façade than the marquee or canopy to which they are attached and shall not extend beyond the property lines.
3. **Pedestal Signs:**
 - a. Must conform to the dimensional standards Refer to Article I, Section 8, Sign Matrix.
 - b. No pedestal sign shall be constructed in residential zones R-1, R-2, R-3, R1-P & R2-P
 - c. Shopping Plaza Sign may be erected as a double-sided directory advertising the name of the shopping plaza and stores on the premises. Such sign shall be free standing and elevated a minimum of nine (9) feet and maximum of twenty (20) feet in height, so as not to interfere with vehicular traffic

ARTICLE II

Section 1. PERMITS: It shall be in violation of this ordinance for any person to erect, alter, relocate, reconstruct or maintain or cause to be erected, altered, relocated, reconstructed or maintained within the corporate limits of the Village of Herkimer, N.Y., any sign or signs without first having obtained and having in force and in effect a permit therefore from the Code Department and without complying with the provisions of this ordinance; unless otherwise indicated in Article I, Section 7 & 8 Sign Matrix.

A.: General Permit Requirements: Application for sign permits shall be made in writing, on forms provided at the Village Office for permanent sign and shall contain the following:

1. Name, Address & Telephone number of applicant.
2. Location of the structure or real property upon which the sign is to be attached or erected.
3. A drawing (to scale) shall be submitted showing the construction details, lettering and/or pictorial matter and position of lighting and other extraneous devices.

Section 2::: Permit Fees:

1. Upon filing of application for a sign permit, a fee per sign face an amount according to Village of Herkimer's Local Law #1 of 2011 (A Local Law to Establish a Uniform Schedule of Fees) shall be made payable to the Village of Herkimer

Section: 3: Operations that do not require a sign permit:

1. Replacing copy: the change of the advertising or message on an approved sign which is specifically designed for the use of a replaceable copy or
2. Maintenance: painting, cleaning and other normal maintenance and repair of a sign or a sign structure, unless a structural change is made or there is a change in the message.

ARTICLE III Enforcement and Remedies: .

Section 1: Enforcement Official

- a. The provisions of this ordinance shall be administered and enforced by the Codes Enforcer who shall have the power to make necessary inspections
- b. No sign permit shall be approved by the Codes Enforcement Officer except in compliance with the provisions of this ordinance

Section 2: Appeals:

- a. Decisions of the Codes Enforcer may be appealed to the Zoning Board of Appeals.
- b. Any person aggrieved by a decision of the Zoning Board of Appeals may have the decision reviewed by the Supreme Court of the State of New York in the manner provided by ordinances.

Section 3: Penalties: Any person, who himself, or by his agent or employee, shall construct, erect, relocate, alter, repair, maintain or use a sign or signs without a permit or shall violate any of the provisions of this ordinance, or who, having had his permit revoked, shall continue to construct, erect, relocate, alter, repair, maintain or use a sign, shall, upon conviction thereof, forfeit and pay to the use of said Village of Herkimer, NY as a penalty for such violation, an amount not to exceed one-hundred dollars (\$100.00) for each violation thereof, and shall further forfeit and pay a like sum for each days' continuance of such violation.

Section 4. Severability Clause

a.. If any clause, sentence, paragraph, section or part of the ordinances shall be adjudged by any court of competent jurisdiction to be invalid; such judgment shall not affect, impair or invalidate the remaining portions hereof, but shall be confined to the clause sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE IV: Billboards**Section 1. Billboards are not allowed**

- a. Pursuant to NYS Highway Law Section 88

ARTICLE V: ESTABLISHED DISTRICTS IN VILLAGE OF HERKIMER

Section 1. Said districts are shown, defined and bounded on the map entitled Village Zone Map filed in the office of the Village Clerk:

Residential District	R1, R2, R3,
Residential Planned District	R1-P & R2-P
Limited Commercial	C1
General Commercial	C2
Central Commercial	C3
Industrial District	I-I
Land Conservation	L
Planned Development	P

Section 2. Said districts are so designated as zones for the purpose of this ordinance pursuant to Article I, Section 6C 4. and illustrated on Appendix A

Section 3. Appendix A – Map

Section 4. Appendix B – Inventory of Current Signs in Village of Herkimer

ARTICLE VI: LAWS, RULES & REGULATIONS GOVERNING THE PROGRAM

Section 1: Federal Law (23 USC Part 131) governs the highway program throughout the country.

Section 2. NYS Law,

- a. Sections 52, 86 and 88 of the highway Law provide for the control of outdoor advertising and are the basis for the rules and regulations governing the program.
- b. 17 NYCRR Part 150 is New York State’s implementation of the Rules & Regulations governing the Sign Program.

Effective Date: This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.

APPENDIX A
ZONES WITHIN THE VILLAGE LIMITS

ZONE 1 C 3 CENTRAL COMMERCIAL DISTRICT

STATE STREET – EAST AND WEST – WITHIN THE VILLAGE LIMITS
WITHIN THE VILLAGE LIMITS, MOHAWK STREET UP TO STEELE STREET
INTERSECTION, SOUTH CAROLINE, ROUTE 28 NORTH AND ROUTE 5
(STATE STREET) TO VILLAGE LIMITS.

ZONE 2 C 3 CENTRAL COMMERCIAL DISTRICT

NORTH & SOUTH MAIN STREET - STOP AT R-3 BOUNDARY
AT COURT STREET

ZONE 3 C – 2 COMMERCIAL LIMITED DISTRICT

MOHAWK STREET, at STEELE ST. INTERSECTION TO SOUTH MAIN STREET
SOUTH MAIN STREET TO GEORGE STREET

ZONE 4 R-1, 2, 3, R1-P R2-P – Residential and Planned Residential