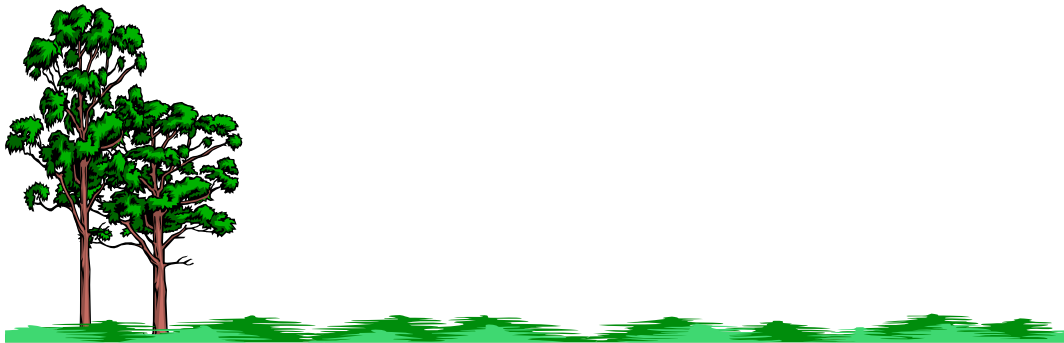


**ORDINANCE NO. 57**

**SIGN  
CONTROL  
ORDINANCE  
FOR THE  
VILLAGE OF FLAT ROCK  
NORTH CAROLINA**

Adopted  
April 9, 2009



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**SIGN CONTROL ORDINANCE FOR THE  
VILLAGE OF FLAT ROCK, NORTH CAROLINA**

**ARTICLE I  
AUTHORITY AND ENACTMENT**

The Council of the Village of Flat Rock, North Carolina, pursuant to the authority granted by the General Statutes of North Carolina, particularly Chapter 160A-174, and the authority vested in the Village of Flat Rock by its charter, hereby ordains and enacts into law the following articles and sections.

**ARTICLE II  
TITLE**

This Ordinance shall be known and may be cited as the Sign Control Ordinance for the Village of Flat Rock, North Carolina.

**ARTICLE III  
PURPOSE**

It is the intent and policy of the Village Council to preserve the unique character of historic Flat Rock. It is the intent of this ordinance to govern the use, approval, construction, change, location and maintenance of signs and related informational tools, as well as their illumination, within the Village limits. This ordinance is intended to preserve the natural beauty of the area, protect property values, and protect public safety.

**ARTICLE IV  
JURISDICTION**

The provisions of this Ordinance shall apply within the incorporated limits of the Village.

**ARTICLE V  
DEFINITIONS, SIGN CHARACTERISTICS**

All phrases, terms and words shall have the usual meanings except as herein defined:

Abandoned sign. A sign erected on property in conjunction with a particular use, which use has been discontinued for a period of one hundred eighty days or more, or a temporary sign for an event that has occurred.

Advertising. Any writing, painting, display, emblem, drawing, sign or other device designed or intended to be used for display or any type of publicity for the purpose of making anything known or attracting attention to a place, product, goods, services, idea or statement.

Alteration. Any change of copy, sign face, color, size, shape, illumination, location, construction or supporting structure of any sign.

Animated sign. A sign that uses movement, lighting or special materials or sound that provides the sign motion or creates the illusion of motion or movement.

Attached sign. Any sign attached to, constructed or painted on the surface of the wall, a window, or an awning over a door or window of a building.

Banner. A sign of lightweight material that is mounted to a pole, sign or a building at one or more edges. National flags, state and municipal flags, and the flag of any institution shall not be considered banners.

Board of Adjustment. The Village of Flat Rock Board of Adjustment.

Changeable copy sign. A sign or portion thereof with characters, letters or illustrations that can be changed.

Copy. Words, letters, logos, numbers, figures, symbols, illustrations or symbolic representations that form a message or otherwise call attention to a business product, service or activity or the sign itself.

Construct. To build, erect, construct, attach, hang, suspend or affix, and shall include the painting of wall signs.

Directional sign. A sign that indicates the required or preferred direction of movement for pedestrian or vehicular traffic.

Directory sign. A sign for listing the tenants, occupants, floor plan addresses or suite numbers of a building, center or residential building development.

Double-faced sign. A sign constructed to display its message on the outer surfaces of two identical and opposite planes at an angle of sixty degrees or less.

Flag. Any fabric or other flexible material varying in color, design, pattern or shape used as an emblem, logo, or symbol of a government, political subdivision, organization or individual.

Freestanding sign. A sign that is supported by one or more braces, poles or uprights from the ground and not attached to a building.

Governmental sign. Any sign erected by or on the order of an authorized public official in the performance of his office or duty including, but not limited to, traffic control signs, street name signs, regulatory signs, public notice signs and signs of a similar nature.

Maintenance/repair. The replacement in kind of sign components including copy panels, paint, supports, wiring or the sign in its entirety.

Mobile/portable sign. A sign designed to be moveable from one place to another, which is not affixed to the ground.

Multifaced. A two-sided sign that is the same on both sides. The entire structural component is counted as one sign.

Nonconforming sign. A sign legally erected, maintained and in existence prior to the date of adoption of this ordinance or an amendment to this ordinance, that does not meet the standards imposed by this ordinance.

Off-premise directional sign. Any off-premise sign indicating the location of or providing directions to a business, church, nonprofit or civic organization, development or other activity.

Off-premise sign. A sign advertising or indicating any activity, business, goods, place, product, or services that are located or conducted elsewhere than on the premises where the sign is erected or placed. Billboard is considered an off-premise sign.

Open house sign. A sign indicating that a residential property is open for viewing by the public in the attendance of the owner or his designated agent for a limited time period. An open house sign shall be considered a temporary sign.

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

Political sign. A sign designed to indicate the support of or opposition to a candidate, issue or proposition upon which voters may vote.

Real estate sign. A sign offering property (land or structure) for sale, lease or rent (including model home signs).

Right of way. The land opened, reserved or dedicated for a street, alley, sewer, water line, walk, drainage course or other public purpose.

Roof line. The highest continuous line on a roof, excluding any mansards, cupolas, pylons, chimneys or minor projection. On a sloping roof, the roofline is a principal ridgeline, or the highest line common to one or more principal slopes of a roof. On a flat roof, the roofline is the highest continuous line of the roof or parapet, whichever is higher.

Roof sign. A sign erected or attached to the roof of a building or-a sign that is attached to a building that extends vertically above the roof line.

Sign. A name, identification, description, symbol, illustration or device that is in view of the general public or adjacent properties and identifies or directs attention to a person, place, product, service, institution or business. A freestanding sign includes the structure upon which it is displayed.

Sign, directly illuminated. A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

Sign, indirectly illuminated. A sign designed to have illumination from a detached light

source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is inoperative, such sign shall be deemed to be a directly illuminated sign.

Sign, nonilluminated. A sign that has neither direct nor indirect illumination.

Sign Enforcement Officer. The Sign Enforcement Officer for the Village as duly appointed by the Village Council.

Special event sign. A sign regarding a special event or function that is of general interest to the community and that does not primarily promote commercial activities.

Temporary sign. A sign that is intended to be displayed for a limited time for a specific event. (Temporary signs do not include mobile/portable signs as defined herein).

Traveled way. That portion of any alley, road, street, or highway upon which pedestrians and vehicles normally travel, and that is marked by asphalt, concrete, gravel, packed dirt or other paving materials. (See also "Right of way").

Village. Village of Flat Rock, North Carolina.

Village center. The area formed by a line one hundred feet from and parallel to the edge of the traveled way on each side of and including (a) Greenville Highway (NC 225) from and including the north driveway entrance to The Vagabond School of the Drama, Inc.'s Flat Rock Playhouse (PIN: 9577224432), south to and including the south driveway entrance to the property currently occupied by and operated as Dean's Market & Deli and Exxon Station (PIN: 9577302953); (b) Little River Road (SR 1123) from its intersection with Greenville Highway, west to and including the driveway entrance to The Vagabond School of the Drama, Inc.'s YouTheater (PIN: 9577129573; and (c) West Blue Ridge Road (SR 1812) from its intersection with Greenville Highway, east to a point at the southeast corner of Singleton Properties, Inc.'s Singleton Centre commercial development (PIN: 9577312714).

Wall sign. A sign that may be painted on a wall of a building attached flush to a building wall or may project from a wall of a building. (See also "Window signs.")

Windblown sign. A sign or series of signs erected so as to move when windblown. (Windblown sign shall not include flags as defined herein).

Window sign. A sign applied, attached to, painted on or suspended behind the glassed area of a building and located such that the information can be read from off the property and shall be considered a wall sign.

Yard sale sign. A temporary sign that advertises the location, date or time of an individual, civic or garage sale at a residence or other property. Yard sale signs shall not include flea market or commercial sale signs.

## **ARTICLE VI SIGN REGULATIONS**

### **600. In general**

After the effective date of this ordinance, it shall be unlawful for any person to erect, construct, reconstruct, move or place any sign regulated by this ordinance that does not conform to the requirements set forth herein on any parcel of property within the jurisdiction of this ordinance. Except as specifically exempted or prohibited in this article, all signs constructed, placed, relocated or maintained shall require a permit in accordance with the provisions of this ordinance.

### **601. Signs exempted**

The following signs are exempted from this ordinance:

- Governmental signs including, but not limited to, traffic, warning, regulatory and informational signs including, building identification, event notice, community promotion, directional and welcome signs.
- A flag or insignia of any government, governmental agency, or charitable, civic, fraternal, patriotic, religious or similar organization, provided the flag or insignia is not displayed as an advertising device.
- Historic markers, monuments or signs erected or approved by public agencies.
- Signs denoting the location of underground utilities.
- Signs posted in association with village, county, state or federal authorities for crime prevention, public safety and health.
- Trade names and graphics that are located on newspaper, soft drink, gasoline pumps and similar vending devices.
- Warning signs posted by utility or construction companies.
- Signs on operational motor vehicles indicating the name of a business, provided the vehicle is not intended for a display of signs.
- Signs required by law, statute or ordinance.
- Decorations or displays of a temporary nature that are associated with any national, local or religious holiday or celebration.
- Official notices or advertisements that are posted or displayed by or under the direction of any court official in the performance of official or directed duties, or by trustees under deeds of trust or similar instruments.

- Nonilluminated window signs denoting hours of operation, emergency telephone numbers, credit card acceptance information, and "open" - "closed" signs.
- A sign that possesses unique and important historical significance. The owner of such a sign shall submit documentation to the Village Council in support thereof and the Council may approve such a sign upon such terms and conditions as it may impose.

## **602. Signs prohibited**

The following signs and sign features or components are prohibited:

- Any sign or sign structure, whether temporary or permanent, located in any public or private road or highway right-of-way, with the exception of governmental signs.
- Any sign that obstructs the view of motorists entering or exiting roads or highways, or interfering with a driver's view of approaching, merging or intersecting traffic.
- Any sign that is located in any manner or place so as to constitute a hazard to traffic.
- Windblown signs and any permanent moving sign or windblown device used to attract attention, whether or not any such device or sign carries a written message, all or part of which is set in motion by wind, mechanical, electrical or other means. These shall include, but not be limited to, propellers, discs, pennants, banners, or flags (except those flags that are exempted in Section 601, and those exempted in Section 603 for one day).
- Animated signs.
- Off-premise advertising signs and off-premise directional signs including real estate signs except open house and associated directional signs provided that:

Only one or two open house signs are allowed off-premises for each open house and such sign(s) may be placed only at the entrance or within the subdivision or development where an open house is actually taking place. An open house sign may also be placed on the premises where the open house is actually being held. Such open house signs may be placed on the day of the open house, and all such signs must be removed within one hour of the end of the open house, but not later than 5:00 p.m. Open house and directional signs may only be placed while there is a host in attendance at the open house site.

Notwithstanding anything contained herein to the contrary, no sign pertaining to any open house may be placed within the Village Center except for an open house on a property located therein.

All signs shall be ten feet or more from the traveled way.

- Any nongovernmental sign resembling a public safety warning sign or traffic signal.
- Any illuminated tubing or strings of lights outlining property lines, open sales areas,

rooflines, the edges of walls, and other displays on commercial premises for commercial purposes on buildings with frontage on a public road in the commercial district, other than holiday decorations used on a temporary basis between November 1 and January 15.

- Mobile/portable signs.
- Roof signs that extend above the roofline.
- Any sign painted or displayed on a vehicle or trailer, if the vehicle or trailer is parked in a location for the primary purpose of displaying the sign, except for signs that are painted on or attached to commercial vehicles that are not parked for the primary purpose of displaying the sign.
- Any sign constructed, posted or maintained upon a tree or utility pole or painted, drawn or attached to a natural rock formation or other natural feature.
- Directional signs larger than eight square feet.
- Bench signs.
- Signs supported by guy lines.

### **603. Signs regulated but not requiring a permit**

The signs described in this section are not subject to the restrictions, requirements or prohibitions contained in any other section of this ordinance. The following signs are regulated under this ordinance but do not require a permit:

- Signs that give the name and address of the occupant of a building, mailboxes and similar uses customarily associated with residential structures provided that:

Single-family dwellings shall have address numbers (digits) that are not less than four inches high and are conspicuously located so as to provide good visibility from the road on which the dwelling fronts.

Multifamily dwellings and nonresidential buildings shall have address numbers that are not less than six inches high and are conspicuously located so as to provide good visibility from the road on which the building fronts.

All such signs shall be of contrasting color to the background material.

- Balloons, banners and pennants displayed for one day in celebration of festive events such as, but not limited to, anniversaries, birthdays, returning service personnel, weddings, and other special events.
- Private, unofficial traffic signs indicating entrances or exits, parking or the direction of traffic on the property, provided that each sign does not exceed four square feet in area.

- Real estate signs advertising the rental, sale or lease of the property on which the sign is located, provided that:

A maximum of one sign per property for each street frontage is permitted.

For residential properties, the sign shall not exceed a maximum area of four square feet.

For nonresidential properties, including tenant spaces located within a building, the sign shall not exceed a maximum area of six square feet.

The sign shall be removed within seven days after the date the property is occupied by a new tenant or the date the property title is transferred to the new owner.

The sign shall not be located closer than ten feet from the nearest edge of the traveled way of any public or private road or highway.

- Construction signs associated with the construction of residential or nonresidential structures on the property or a residential subdivision provided that:

No more than one such sign is permitted on a residential or nonresidential property, and no more than one such sign at each entrance to a residential subdivision.

Such sign shall not exceed a maximum of twelve square feet in area on a nonresidential property or at the entrance to a subdivision.

Such sign shall not exceed a height of six feet.

Such sign shall be removed within seven days of the issuance of a certificate of occupancy or the expiration of the building permit.

- Political signs, provided that:

Signs shall not exceed a maximum of sixteen square feet or six feet in height and shall be located so as not to impair an individual's ability safely to see other vehicles or to see pedestrians at intersections, driveways, crosswalks, or alleys.

Signs may be erected no earlier than the last day on which a candidate must file with the state or Henderson County Board of Elections. The signs must be removed within three days after any primary election day as to an unsuccessful primary candidate and within three days after any general election as to all other candidates.

- Signs that are posted upon property to identify private parking areas, or to warn the public against trespassing or danger from animals, provided that no such sign shall exceed two square feet in surface area per side.

- Temporary signs for yard sales, provided that:

No more than one such sign is permitted on the premise where the yard sale is located, plus no more than one additional sign located on a different property.

Such sign shall not exceed a maximum area of four square feet.

Such sign shall be permitted for a maximum of four days.

On-premise directional and informational signs are permitted in nonresidential districts in multitenant developments provided any such sign does not exceed two square feet in area and four feet in height. Such signs shall be nonilluminated and shall not contain national corporate logos.

#### **604. Signs regulated**

All signs, except as herein provided in Sections 601, 602 and 603, shall require a sign permit as provided in Article VIII.

#### **605. General provisions**

All signs regulated by the provisions of this ordinance shall conform to the general requirements of this section.

Appropriateness. Consistent with Article III hereof, the Sign Enforcement Officer shall have the authority to reject a sign application if, in his judgment, the sign would be inconsistent with the objectives of this ordinance and, in particular, preserving the natural beauty of the area.

Code requirements. All signs regulated by this ordinance shall be erected, constructed and maintained in accordance with all applicable building codes.

Commercial use involving off-premise advertising sign. Any site owner, who provides a site for an off-premise advertiser's sign for a fee, or consideration of any type, is involved in the commercial use of the sign site for off-premise advertising, regardless of the commercial or noncommercial message on the sign.

Nothing in this section shall be construed to allow a commercial message any preference or greater protection over a noncommercial message, or to allow one noncommercial message, any preference or greater protection over another noncommercial message. Any reference to the message content of an off-premise advertising sign, to the limited extent such reference is necessary, is made for the sole purpose of classifying and segregating the two basic types of signs regulated in this section.

Noncommercial messages. Any sign, display or device allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale or lease, and that complies with the size, height, spacing, setback, lighting and other requirements of this ordinance.

Area of signs. The area of a sign shall be that of the smallest rectilinear figure that encompasses all lettering, wording, design or symbols, together with any background designed as a border or an integral part of and related to the sign. Supports and bracing that are not intended to be part of the sign shall be excluded. In the case of a multifaced sign the area of the sign shall include all faces visible from one direction.

Height of signs. The height of a sign shall not exceed the maximum height set forth in this ordinance. The height of a sign shall be measured from the ground directly below the center of the sign or from the grade of the closest point in the traveled way of the street where the sign is located; whichever is higher, to the uppermost point of the sign or sign structure

Colors. Sign colors shall be the owner's or tenant's own choice. However; sign colors shall be uniform between the freestanding sign and any attached signs.

Electrical wiring. Electric signs that have internal wiring or lighting equipment, or external lighting equipment that directs light on signs shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing and requires proper installation in accordance with the National Electrical Code as adopted and amended by the North Carolina Building Code Council. All wiring leading to electric signs or to freestanding equipment that lights a sign must be installed underground.

Logos. Nationally registered trademark graphic logos shall be allowed on any permitted sign in a nonresidential district, provided the logo shall be included in the calculation of the sign's maximum permitted area.

Method of attachment. Attached signs as herein defined shall include the following:

- Wall sign. A wall sign may be painted on a wall of a building, attached flush with a building wall, or attached to project from a wall of a building. Any projecting sign shall not project perpendicularly more than three feet from the facade of a building to which it is attached and shall be a minimum of eight feet above grade below the sign as measured from the lowest point on the sign.
- Window signs. Window signs may not cover more than twenty percent of the gross glass area on anyone side of the building. For the purposes of this ordinance, window signs shall be considered a wall sign.
- Changeable copy signs. A changeable copy section or component of a freestanding, on-premise sign is allowed as an integral part of a sign provided the total area of the sign does not exceed the maximum area permitted in the district in which it is located.
- Freestanding signs. A freestanding sign shall be limited to one side or face per directional flow of traffic.
- Traffic hazard. It shall be illegal for any sign to interfere with, obstruct the view of or be of design that may be confused with any authorized traffic sign, signal, or device; nor shall any sign imitate an official traffic sign or include the words "STOP," "LOOK,"

"CAUTION" or any other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse motorists.

## **606. Signs permitted in residential districts**

The following signs shall be allowed in all residential districts, subject to the standards set forth in this section and other applicable provisions of this ordinance.

Subdivision or multifamily identification sign. An on-premise, freestanding sign containing the name of the subdivision or multifamily development is permitted on one or both sides of each entrance into the subdivision or development, provided that each sign does not exceed a maximum of forty-eight square feet in area per sign face, eight feet in height and that a minimum of fifty square feet of landscaped area be provided at the base of such sign. Such sign may be nonilluminated or indirectly illuminated.

A subdivision or multifamily identification sign conforming to the above requirements may be located within the median of an entrance, provided such sign is set back a minimum of ten feet from the intersection of the entrance road with the adjacent road right of way.

Identification and information signs for churches and places of worship. One on-premise, freestanding identification sign is permitted, provided such sign shall not exceed a maximum of forty-eight square feet in area, ten feet in height and set back of the adjacent right of way, but not less than ten feet from the edge of the traveled way. One additional on-premise, freestanding, informational sign is permitted, provided that such sign shall not exceed a maximum of twelve square feet in area, four feet in height and set back of the adjacent right of way, but not less than ten feet from the edge of the traveled way. The information sign may be combined with the identification sign and may incorporate changeable copy, provided the maximum area of the combined sign shall not exceed forty-eight square feet. Identification and information signs may be nonilluminated or indirectly illuminated.

A church or place of worship may choose to erect an attached sign as an alternative to the permitted on-premise, freestanding sign, provided said attached sign does not exceed a maximum area of one-half square foot of signage for each linear foot of building frontage where such sign is to be attached, provided the sign shall not exceed a maximum of forty-eight square feet in area. Such attached sign may be nonilluminated or indirectly illuminated.

Identification signs for performing arts uses.

One on-premise, freestanding identification sign is permitted per driveway entrance for a performing arts use, each such sign not to exceed a maximum of forty-eight square feet in area, ten feet in height, and set back of the adjacent right of way not less than ten feet from the edge of the traveled way. Such sign may be nonilluminated or indirectly illuminated. In addition to the on-premise, freestanding sign permitted in this section, a performing arts use is permitted an attached sign that does not exceed a maximum area of one-half foot of signage for each linear foot of building frontage where such sign is to be attached. Such attached sign may be nonilluminated or indirectly illuminated.

Identification signs for nonresidential uses in residential districts, other than churches and places of worship and performing arts uses. One on-premise, freestanding identification sign is permitted per street frontage, not to exceed a maximum of twenty-four square feet in area, ten feet in height, and set back of the adjacent right of way, but not less than ten feet from the edge of the traveled way. Such sign may be nonilluminated or indirectly illuminated.

In addition to the on-premise, freestanding sign permitted in this section, a nonresidential use in a residential district is permitted an attached sign that does not exceed a maximum area of one-half foot of signage for each linear foot of building frontage where such sign is to be attached, provided the sign shall not exceed a maximum of twenty-four square feet in area. Said attached sign may be nonilluminated or indirectly illuminated.

#### **607. Signs permitted in nonresidential districts**

In addition to the signs permitted in section 606, the following signs shall be allowed in all nonresidential districts, subject to the standards set forth in this section and other applicable provisions of this ordinance.

##### Single tenant development:

Single tenant developments in nonresidential districts shall be permitted the following signage:

Freestanding signs. One freestanding, on-premise sign is permitted, provided the sign shall not exceed a maximum of thirty-two square feet in area, twelve feet in height and shall be set back of the adjacent right-of-way, but not less than ten feet from the edge of the traveled way. A single tenant development that has a street frontage more than 500 linear feet may have one additional freestanding, on premise sign that shall conform to the requirements of this subsection for size, height and setback.

Such additional sign shall not be located less than 200 feet from the free standing, on-premise sign on the same premises. Such sign may be nonilluminated or indirectly illuminated.

Attached signs. Two attached signs are permitted, provided the total aggregate area of all attached signs shall not exceed a maximum of one-half square foot of signage for each linear foot of building frontage where such signs are to be attached, or a maximum size of forty-eight square feet. A building that fronts on more than one street is permitted one additional sign on the second frontage, provided such sign does not exceed the size of the largest sign on the primary frontage. Attached signs may be nonilluminated or indirectly illuminated.

##### Multitenant development:

Developments that are occupied by two or more tenants and that do not include out-parcels shall be allowed the following signs:

Freestanding signs. One freestanding, on-premise advertising sign is permitted, provided the sign shall not exceed a maximum of thirty-two square feet in area, twelve feet in height and shall be set back of the adjacent right-of-way, but not less than ten feet from the edge of the traveled way. Such sign may be nonilluminated or indirectly illuminated.

One additional freestanding, on-premise sign per building identifying the tenants occupying said building is permitted, provided such sign shall not exceed a maximum of twenty-four square feet in area and five feet in height. The sign shall be nonilluminated.

Attached signs. One attached sign is permitted per tenant, provided the sign shall not exceed a maximum of one-half square foot of signage for each linear foot of building frontage per

individual tenant space or a maximum size of sixty-four square feet. A tenant that fronts on more than one street, or is accessible from more than one side of a building, is permitted one additional sign on the second frontage or side, provided such sign does not exceed the size of the sign on the primary frontage or side. Where multitenant developments provide a common entrance to two or more businesses, one additional attached sign is permitted, provided the sign shall not exceed a maximum area of six square feet and shall only list the names of the businesses in the development. Where a business has multiple entrances, one additional attached sign is permitted for each entrance, provided the sign shall not exceed a maximum of six square feet and shall list only the name of the business on the premises. Attached signs may be nonilluminated or indirectly illuminated.

Temporary signs. One temporary sign, either attached or freestanding is permitted per lot for a period of ten days, three times during a calendar year, provided the ten day periods are not less than sixty days apart.

The sign shall not exceed a maximum size of sixteen square feet or six feet in height and shall be set back at least ten feet from the edge of the traveled way of any street or property line. No portion of any sign shall be closer than ten feet from the edge of any traveled way or ten feet from the side and rear property lines. The property owner's permission is required before any sign is placed or erected.

Nonprofit entities:

For the purpose of this section, the term "nonprofit entity" shall include any place of worship and other organizations that have been recognized by the Internal Revenue Service as exempt from federal income tax pursuant to the Internal Revenue Code.

One freestanding, on-premise sign is permitted per street frontage not to exceed a maximum of sixteen square feet in area, six feet in height and set back from the adjacent right-of-way not less than ten feet from the traveled way. Such sign may be nonilluminated or indirectly illuminated.

## **ARTICLE VII SIGN MAINTENANCE AND REPAIR**

### **700. Sign maintenance**

All signs and their structures that are subject to this ordinance shall be maintained in good repair and safe condition and shall conform to the standards in this section. Maintenance carried out in accordance with this section shall not require a sign permit provided the sign is not enlarged, moved or altered in any manner that would create or increase a nonconforming condition. Any sign violating these requirements shall be repaired or removed as required.

No sign shall be allowed to have more than twenty percent of its total surface area covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions for more than thirty consecutive days.

No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts that cause the sign to stand more than fifteen degrees from the

perpendicular for more than thirty consecutive days.

No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on such sign and obscuring more than twenty percent of the sign from the road or highway from which it is intended to be viewed for more than thirty consecutive days.

No illuminated sign shall be allowed to stand with only partial illumination for more than thirty consecutive days.

No sign or sign structure shall be allowed if a business no longer exists and the issued permit is not transferred within one year.

If a sign is damaged such that more than fifty percent of the sign's current value as herein defined is lost, as determined by the Sign Enforcement Officer, any repair or replacement shall be done in conformance with this ordinance.

Signs that require landscaped areas shall be maintained. All dead plant material shall be replaced by the next growing season, and the landscaped area shall be maintained by the removal or mowing of weeds and the removal of litter.

#### **701. Reconstruction of damaged signs**

Any conforming sign or sign structure that is subject to this ordinance that has been damaged may be repaired and used as before, provided all repairs are initiated within thirty working days and completed within sixty working days of such damage. However, if the sign should be declared unsafe by the Sign Enforcement Officer, the owner of the sign, or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions to the Sign Enforcement Officer's satisfaction.

If the Sign Enforcement Officer discovers that a sign is damaged or is in an unsafe condition, the Sign Enforcement Officer will promptly notify either the sign owner or the owner of record of the real property whereon the sign is located. The affirmative duty and liability shall, however, remain with the owner of the sign to keep it in a safe and undamaged condition in accordance with the terms of this ordinance.

(See Section 807 below for reconstruction of damaged nonconforming signs.)

### **ARTICLE VIII PERMITS, FEES AND NONCONFORMING SIGNS**

#### **800. Permits**

All signs, except as otherwise provided in Article VI of this ordinance, shall require a sign permit prior to being constructed, moved, altered, placed or repaired. Sign permits shall be

issued by the Sign Enforcement Officer. No sign construction shall commence before a permit is issued. The sign(s) must be erected and completed within 180 days of the date the permit is issued or the permit shall become null and void. If a sign permit is denied, the decision may be appealed to the Flat Rock Board of Adjustment within thirty days following the decision.

### **801. Permit application**

No sign permit shall be issued until an application and supporting documentation for each separate sign or sign structure are submitted to and approved by the Sign Enforcement Officer. The initial permit shall be valid until revoked by the Sign Enforcement Officer.

#### Application requirements:

An application for a sign may be filed only by the owner of the property on which the sign is to be erected or by an agent, lessee or contract purchaser specifically authorized by the owner to file such application. Where an agent, lessee or contract purchaser files the application, the agent, lessee or contract purchaser shall provide the Village with written documentation that the owner of the property has authorized the filing of the application.

An application for a sign permit shall be filed with the Sign Enforcement Officer on a form prescribed by the Village, along with the fee for such permit as prescribed by the Village Council.

Each application for a sign permit shall contain the information required on the application form and such other information regarding the proposed sign as the Sign Enforcement Officer may deem necessary in order to determine whether the proposed sign complies with the applicable requirements of this ordinance and other applicable ordinances of the Village.

The Sign Enforcement Officer shall determine whether the application is complete. If it is determined that the application is not complete, then he shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

### **802. Plans, specifications and data required for permit**

The application shall be accompanied by complete information as required on forms provided by the Sign Enforcement Officer and shall include, without being limited to, a site plan and elevation drawings of the proposed sign, indicating the proposed location of the sign,

setbacks, height, dimensions and square footage, the type of illumination of the proposed sign, and any other data as the Sign Enforcement Officer may determine is necessary for review of the application.

The Sign Enforcement Officer shall not issue a sign permit unless the plans, specifications and intended use of such sign conforms in all respect to the applicable provisions of this ordinance.

### **803. Permit fees**

Permit fees are required to be paid for all new signs for which a sign permit is required by this ordinance. Existing sign structures are exempt from the permit fee. A fee schedule for sign permits shall be established by the Village Council.

### **804. Permit transfers**

Valid sign permits may be transferred to new sign owners, provided the Sign Enforcement Officer is given notice of the transfer of ownership with thirty days of the actual transfer.

### **805. Permit revocations**

Valid sign permits for new signs and permitted nonconforming signs may be revoked for any one of the following reasons:

Misrepresenting material facts by the applicant on the application for a sign permit.

Failing to construct the sign structure within 180 days from the permit issue date.

Altering, enlarging or relocating a sign, except in conformance with the requirements of this ordinance.

Allowing a sign to remain blank for a period of twelve consecutive months or to reach a state of dilapidation or disrepair as determined by the Sign Enforcement Officer.

Any violation of Section 700 of this ordinance.

### **806. Notice of noncompliance to be given to applicant**

The Sign Enforcement Officer shall not issue a permit for a proposed sign that will not conform to this ordinance and shall notify the owner of the proposed sign by first class mail as to why the proposed sign does not comply with this ordinance.

### **807. Nonconforming signs**

Any nonconforming sign or sign component as herein defined, with the exception of signs prohibited for reasons of public safety under Section 602 of this ordinance, shall be allowed to continue and shall be maintained as provided in this ordinance, but shall not be:

Changed, altered or replaced by another nonconforming sign, except that copy may be changed on an existing sign.

Expanded or modified in any way that increases the sign's nonconformity.

Structurally altered, except to meet safety requirements.

Reestablished after it has been removed or has been abandoned for ninety days or more.

Continued in use after the cessation or change of the business or activity to which the sign pertains.

Reestablished after damage or destruction if such damage to the sign exceeds fifty percent of the sign's current value as herein defined. The extent of damage shall be determined by the Sign Enforcement Officer. The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall be the original cost of the sign, if such information is known to the owner of the sign. In the absence of such information, the Sign Enforcement Officer shall estimate the original cost based upon the best information reasonably available.

All signs prohibited for reasons of public safety under Section 602 of this ordinance that are made nonconforming as a result of the enactment of this ordinance, or from the enactment of an amendment to this ordinance, shall be removed within 180 days of the effective date of this ordinance or the date of such amendment.

## **ARTICLE IX ADMINISTRATION, ENFORCEMENT AND APPEALS**

### **900. Administration and enforcement**

Appointment of Sign Enforcement Officer. The Village Council shall appoint a Sign Enforcement Officer and may appoint one or more Deputy Sign Enforcement Officers. A Deputy Sign Enforcement Officer shall have the duties and exercise the functions of the Sign Enforcement Officer with respect to those matters assigned to such officer by the Sign Enforcement Officer or the Village Council. The Sign Enforcement Officer shall be responsible for the administration and enforcement of this ordinance.

Notice of violation. The Sign Enforcement Officer shall have the authority to issue a notice of violation of this ordinance. Where the owner of a sign is indicated on the sign or is otherwise apparent or known to the Sign Enforcement Officer, a copy of the notice of violation shall be delivered to the sign owner by certified mail, return receipt requested.

In all other cases, a copy of the notice of violation shall be posted on the sign. A copy of the notice of violation shall also be delivered by certified mail, return receipt requested, to the property owner as shown on the Henderson County tax records. In addition, service hereunder may be made in accordance with Rule 4 of the North Carolina Rules of Civil Procedure.

Time to remedy violation. All violations shall be remedied within thirty days. The thirty day period shall commence upon the service of the notice of violation as set forth above.

Extension of time for compliance. The Sign Enforcement Officer shall have the authority to grant a single thirty day extension of time within which to remedy the violation. An extension of time may be issued on the basis of a written request for extension of time, which sets forth valid reasons for not complying within the original time period.

Remedies for failure to comply:

- (A) Sign permit revocation. The Sign Enforcement Officer may revoke any sign permit when false statements or misrepresentations were made in securing the permit or the sign is constructed and erected in substantial departure from the approved application.
- (B) Civil penalty process. In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to N.C. General Statutes 160A-175, the regulations and standards of this ordinance may be enforced through the assessment of civil penalties by the Sign Enforcement Officer in coordination with the Village Council, as detailed in the following subsections:
- (1) Upon determination that a violation exists, the Sign Enforcement Officer shall cause a notice of violation to be issued to the violator and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the Village or Henderson County or as obtained from the violator or his agent. The Sign Enforcement Officer shall sign and have notarized an affidavit describing the type of service and the date of service. The violator shall be deemed to have been served upon the mailing or personal service of the notice of violation. The notice of violation shall set out the nature of the violation, the section of this ordinance violated, and the date or dates of the violation, and shall contain an order immediately to cease the violation.
  - (2) The violator may file an appeal from a notice of violation. Such an appeal shall be filed within ten days from the service date of the notice of violation as indicated on the affidavit of service. An appeal is deemed filed on the date it is received by the Sign Enforcement Officer. For the purposes of this section, the Village Clerk's receipt of a notice of appeal shall be deemed constructive receipt by the Sign Enforcement Officer. A violator who fails to file an appeal within the time period described above is deemed to have forfeited the appeal for the violation, the notice of violation, the civil citations, and the civil penalties assessed for the violation.  
Appeals shall be heard by the Board of Adjustment. The decision of the Board of Adjustment is subject to review in the Superior Court of Henderson County in the nature of certiorari.
  - (3) If the Sign Enforcement Officer determines that the period of time stated in the original notice of violation is not sufficient, he may amend the notice of violation to provide for an additional thirty days.
  - (4) Upon failure of the violator to comply with the notice of violation within ten days of service of the notice of violation, a civil citation shall be issued by the Sign Enforcement Officer and served on the violator or his agent, either in person or by first class United States mail, postage prepaid and addressed to the last known address of the violator as contained in the records of the Village or

Henderson County or obtained from the violator or his agent.

- (5) The civil citation shall direct the violator immediately to cease the violation, shall inform the violator of the civil penalty provided for in paragraph (C) below, and shall direct the violator to make payment of the civil penalty to the Village Clerk within ten days of the date of the civil citation, or alternatively to pay the citation by mail postmarked within ten days of service of the civil citation.
  - (6) If the violator fails to respond to a civil citation within ten days of its service, and pay the penalty prescribed therein, the Village may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees and such other relief as permitted by law.
- (C) Civil penalties. When a violation subjects an offender to a civil penalty, the penalty shall be \$10 per day, for the first thirty days, and \$100 per day thereafter. Such penalty shall apply to a case where remedial action to correct the violation is required by the Sign Enforcement Officer.
- (D) Enforcement. The Sign Enforcement Officer shall have authority for the enforcement of this ordinance, and to cite violations of this ordinance or sign related violations of orders or conditions issued or imposed by the Zoning Administrator, the Board of Adjustment or the Village Council.

#### Removal of dangerous signs

Pursuant to N.C. General Statutes 160A-412, the Sign Enforcement Officer shall have the authority to summarily remove, abate or remedy a sign, which the Henderson County Building Inspector determines to be dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by the sign owner, or if the sign owner cannot be determined, by the property owner, and if it is not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes.

#### Removal of signs in the public right-of-way

The Sign Enforcement Officer shall have the authority, without prior notice, summarily to remove from the right-of-way of any public highway, road, or street any sign not authorized to be placed in such right-of-way pursuant to applicable regulations of the North Carolina Department of Transportation. For the purposes of this ordinance, such right-of-way shall be deemed to be a strip of land ten feet in width along each side and parallel to the edge of the traveled way.

Signs removed from a public right-of-way will be stored by the Sign Enforcement Officer at the Flat Rock Village Hall for a reasonable time, not to exceed ten days. To the extent the owner of any such removed sign can be identified from the face of the sign, the owner will be notified of the sign's removal and given the opportunity to retrieve the sign. Any such sign not retrieved by the owner, and any sign the owner of which cannot be determined from its face, may be destroyed or discarded after ten days following its removal.

### Stay upon appeal

In the event of a timely appeal of a decision of the Sign Enforcement Officer to the Board of Adjustment, enforcement of all proceedings and furtherance of the action appealed from is stayed, unless the Sign Enforcement Officer certifies to the Board of Adjustment that a stay would cause imminent peril to life or property.

### **901. Appeals and variances**

(A) Board of Adjustment. The Board of Adjustment shall hear and decide all appeals from any order, requirement, decision, interpretation or determination made by the Sign Enforcement Officer, and shall hear and act upon all applications for variances from the requirements of this ordinance.

(B) Procedures for filing notices of appeal and variance applications. No appeal shall be heard by the Board of Adjustment unless written notice thereof is filed and any applicable fee is paid within thirty days after the interested party or parties receive written notice of the decision by or determination by the Sign Enforcement Officer. Notices of appeal and variance applications shall be filed with, and applicable fees shall be paid to, the Village Clerk, who shall act as clerk for the board in receiving such notices, applications and fees. All notices of appeal and variance applications shall be upon forms specified for such purposes by the Village Council, and a notice of appeal or a variance application, on the appropriate form, and payment of any applicable fee, must be received by the Village Clerk before it shall be deemed as having been filed. The Village Clerk shall notify the chairman of the board that a notice of appeal or a variance application has been filed.

(C) Hearings.

(1) Time. Upon receipt of a notice of appeal or variance application, the chairman of the Board of Adjustment shall schedule a time for a hearing that shall be within sixty days of the filing of such notice of appeal or application. In any case where only four members of the board are, or will be, available to vote on a matter before the board at a scheduled hearing, such sixty day time period may be extended for up to thirty additional days or, if a hearing is convened, it may be continued until the next regular meeting of the board, at the request of

the appellant or applicant; provided, that the appellant or applicant agrees to a similar extension of time by which the board must act with respect to the appeal or variance application.

(2) Conduct of hearing. Any party may appear at the hearing in person, by agent or by attorney. All testimony shall be given under oath or affirmation, and any party shall have the right to confront and cross-examine another party's

witnesses. The order of business for the hearing shall be as follows”

(a) The chairman shall give a preliminary statement of the case, and in the case of an appeal, shall afford the Sign Enforcement Officer the opportunity to present his reasoning for his decision that is being appealed.

(b) The appellant or applicant shall present the argument in support of the appeal or application. Evidence in support thereof may be introduced by the appellant or applicant or by witnesses called by such party. Persons opposed to the appeal or application shall be afforded the opportunity to cross-examine any such witness on matters to which the witness has testified.

(c) Both sides will be permitted to present rebuttals to opposing testimony.

(d) The chairman shall summarize the evidence that has been presented, and give the parties the opportunity to make objections or corrections. The board shall not be limited to consideration of only such evidence as would be admissible in a court of law.

(D) Decisions.

(1) Time. A decision by the Board of Adjustment shall be made within forty-five days of the date of conclusion of the public hearing.

(2) Form. Written notice of the decision in a case shall be given by the secretary of the Board of Adjustment to the appellant or applicant no later than the close of business of the day following the date of such decision. The final decision of the board shall be shown in the record of the case as entered in the approved minutes of the board’s meeting, and shall be signed by the chairman upon approval by the board. Such record shall show the reasons for the decision, with a summary of the evidence introduced and the finding of fact made by the board. The decision on an appeal may reverse or affirm, wholly or in part, or modify the decision or determination of the Sign Enforcement Officer. The record shall state in detail what, if any, conditions are imposed by the board in connection with the granting of a variance.

**902. General considerations for granting a variance.**

(A) Hardship. No variance in the strict application of the provisions of this ordinance shall be granted by the Board of Adjustment, unless it finds that the strict application of such provisions would cause exceptional hardship to the property owner. In general, the power to authorize a variance from the terms of this ordinance shall be sparingly exercised.

(B) Physical condition of land. It is the intent of this ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land that poses

practical difficulty and prevents the owner from obtaining the full use and purpose of the sign as intended by this ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the sign.

- (C) Public interest. The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. The Board of Adjustment may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.
- (D) Matters not to be considered for a variance. The following are not to be considered for a variance and are not appealable: maximum allowable sign area, total number of signs, sign illumination and regulations that protect public safety.

### **903. Appeals from the Board of Adjustment**

Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, or any Village officer or official may, within thirty days after filing of the decision in the office of the Village Clerk, or, if later, after a written notice of the decision has been delivered to such aggrieved party, and not thereafter, present to the Superior Court of Henderson County a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of illegality. Every decision of the board shall be subject to review by proceedings in the nature of certiorari.

### **903. Fee schedule**

Fee schedule. The Village Council may establish, and modify from time to time, a fee schedule for the administration and enforcement of this ordinance and to recover the administrative costs of processing appeals from actions of the Sign Enforcement Officer and variance applications . In order to be deemed complete, applications filed under this ordinance shall be accompanied by payment of all applicable fees.

## **ARTICLE X AMENDMENTS**

### **1000. Initiation of amendments**

Proposed amendments to this ordinance may be initiated by the Village Council, the Sign Enforcement Officer or any person affected by any provision of the ordinance. Proposed amendments shall be submitted to the Village Clerk.

### **1001. Council action**

The Village Council may enact any amendment to this ordinance by a majority vote at any meeting of the council after a public hearing on such amendment.

**ARTICLE XI  
LEGAL STATUS PROVISIONS**

**1100. Conflict with other laws**

Whenever any provision of this ordinance conflicts with that of another ordinance or any North Carolina statute the more restrictive provision shall govern.

**1101. Severability**

Should any section or provision in this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

**1102. Effective Date**

This ordinance shall supersede Ordinance No. 5 adopted by the Village Council November 14, 1996, and all amendments thereof, and shall take effect and be enforced on and after the date of its adoption by the Village Council this 9<sup>th</sup> day of April 2009.

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Michelle D. Hill  
Village Clerk

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Robert V. Staton  
Mayor

APPROVED AS TO FORM:

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Sharon B. Alexander  
Village Attorney

*(Rev. 04/09/2009-rvs)*