

ORDINANCE NO. 104

**VILLAGE OF FLAT ROCK
SIGN CONTROL ORDINANCE**

Adopted: December 2, 2019

Amended: November 17, 2020

Amended: June 30, 2021

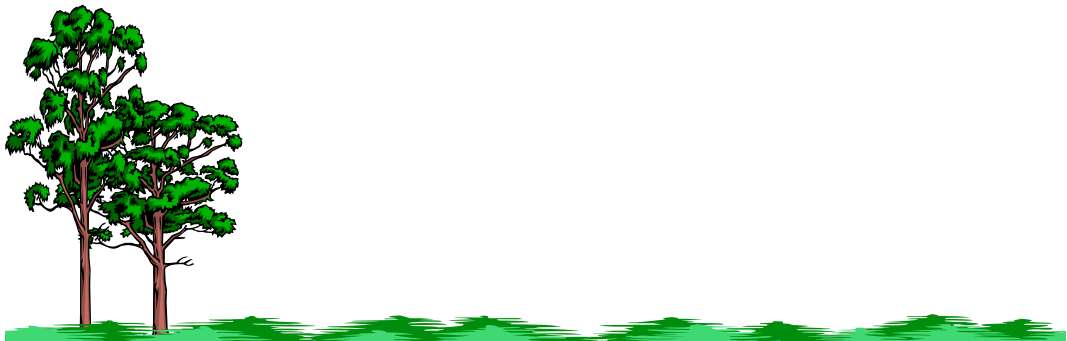


TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
I	AUTHORITY AND ENACTMENT	1
II	TITLE	1
III	PURPOSE AND INTENT	1
IV	JURISDICTION	3
V	DEFINITIONS, SIGN CHARACTERISTICS	3
VI	SIGN REGULATIONS	7
	Section 600 In general	7
	Section 601 Signs exempted	7
	Section 602 Signs prohibited	8
	Section 603 Signs regulated but not requiring a permit	9
	Section 604 Signs regulated	11
	Section 605 General provisions	11
	Section 606 Signs permitted in residential districts	12
	Section 607 Signs permitted in nonresidential districts	13
VII	SIGN MAINTENANCE AND REPAIR	15
	Section 700 Sign maintenance	15
	Section 701 Reconstruction of damaged signs	16
VIII	PERMITS, FEES AND NONCONFORMING SIGNS	16
	Section 800 Permits	16
	Section 801 Permit application	16
	Section 802 Plans, specifications and data required for permit	17
	Section 803 Permit fees	17
	Section 804 Permit transfers	17
	Section 805 Permit revocations	17
	Section 806 Notice of noncompliance to be given to applicant	18
	Section 807 Nonconforming signs	18
IX	ADMINISTRATION, ENFORCEMENT AND APPEALS	19
	Section 900 Administration and enforcement	19
	Section 901 Appeals and variances	21
	Section 902 General considerations for granting a variance	22
	Section 903 Appeals from the Board of Adjustment	22
	Section 904 Fee schedule	22

TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
X	AMENDMENTS	23
	Section 1000 Initiation of amendments	23
	Section 1001 Council action	23
XI	LEGAL STATUS PROVISIONS	23
	Section 1100 Conflict with other laws	23
	Section 1101 Severability	23
	Section 1102 Effective date	23

VILLAGE OF FLAT ROCK SIGN CONTROL ORDINANCE

ARTICLE I AUTHORITY AND ENACTMENT

The Council of the Village of Flat Rock, North Carolina, pursuant to the authority granted by the North Carolina General Statutes, particularly NCGS §160D-912 (Outdoor advertising), 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 Village of Flat Rock Sign Control Ordinance.

ARTICLE III PURPOSE AND INTENT

Because signs obstruct views, distract motorists, displace alternative uses for land, and create other health and safety problems that legitimately call for regulation, the purpose and intent of this ordinance is to promote the public health, safety and general welfare, and to further the Village Council's policy to preserve the unique character of historic Flat Rock through reasonable, consistent and nondiscriminatory sign standards. The purpose of this ordinance is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation and preservation of an attractive and harmonious community, and the preservation of the natural beauty of the area and protection of the public's health, safety and welfare.

The specification of criteria for all signage in this ordinance is intended to serve the following purposes:

- (a) Encourage the effective use of signs as a means of communication within the Village;
- (b) Maintain and enhance the aesthetic environment and the Village's ability to attract sources of economic development and growth;
- (c) Improve pedestrian and traffic safety;
- (d) Minimize the possible adverse effects of signs on nearby public and private property;
- (e) Foster the integration of signage with architectural and landscape designs;
- (f) Lessen the visual clutter that may otherwise be caused by the proliferation,

improper placement, illumination, animation, excessive height and excessive size (area) of signs that compete for the attention of pedestrian and vehicular traffic;

(g) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that conceal or obstruct adjacent land uses or signs;

(h) Encourage and allow signs that are appropriate to the zoning district in which they are located;

(i) Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;

(j) Regulate signs in a manner so as not to interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

(k) Ensure that signs are constructed, installed and maintained in a safe and satisfactory manner and protect the public from unsafe signs;

(l) Preserve, conserve, protect and enhance the aesthetic quality and scenic beauty of all areas in the Village;

(m) Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic system;

(n) Protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness or movement;

(o) Protect property values by ensuring that sign types, as well as the number of signs, are in harmony with buildings, neighborhoods and conforming signs in the area;

(p) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the Village and that complements the natural surroundings in recognition of the Village's reliance on its natural surroundings, beautification and redevelopment efforts in retaining economic advantage for its residential neighborhoods and commercial developments;

(q) Enable the fair and consistent enforcement of these sign regulations;

(r) Promote the use of signs that positively contribute to the aesthetics of the community, and are appropriate in scale to the surrounding buildings and landscape, and advance the Village's goals of quality development;

(s) Provide standards regarding the non-communicative aspects of signs, which are consistent with all applicable law;

(t) Provide flexibility and encourage variety in signage; and

(u) Assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way and other public places and spaces are protected by exercising reasonable controls over the physical characteristics and structural design of signs.

This ordinance shall be interpreted in a manner consistent with the United States Constitution's First Amendment guarantee of free speech. This ordinance allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. The sign regulations of this ordinance are not intended to censor speech or regulate viewpoints, but instead are intended to address the secondary effects of signs that may adversely impact aesthetics and safety. The sign regulations are designed to serve substantial government interests such as traffic safety.

ARTICLE IV JURISDICTION

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

ARTICLE V DEFINITIONS, SIGN CHARACTERISTICS

For the purpose of this ordinance, certain words and terms used herein shall be interpreted to have meanings as defined below. Where words or terms are not defined in this ordinance, they shall have their originally accepted meanings or such as the context may imply.

Definitions

Abandoned sign or sign structure. A sign or sign structure that has not been operated, repaired or maintained by the owner for a period of six months or longer. Also, a sign erected on property in conjunction with a particular use, which use has been discontinued for a period of six months or more.

Advertising. Any writing, painting, display, copy, emblem, drawing, sign or other device designed or intended to be used for display or any type of publicity for the purpose intended to aid, directly or indirectly, in the sale, use or promotion of a product, commodity, service, activity, entertainment or property, real and personal.

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, action, color changes, optical illusion 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 another structure, including the surface of the wall, a window, or an awning over a door or window of a

building.

Banner. A sign, or string of one or more signs, of lightweight material that is mounted to a pole, sign or a building at one or more edges which is used to attract attention, whether or not imprinted with words or characters, National flags, state and municipal flags, and the flag of any institution shall not be considered banners. Banners shall not exceed a maximum size of 30 square feet or six feet in height and shall be located so as not to impair an individual's ability to safely see other vehicles or to see pedestrians at intersections, driveways, crosswalks, or alleys.

Billboard. A sign structure or sign utilized for advertising an establishment, an activity, a product, service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which said sign structure or sign is located.

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

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, attach, hang, suspend or affix, and shall include the painting of wall signs.

Council. The Village Council of the Village of Flat Rock, North Carolina.

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

Off-premises 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. A billboard is considered an off-premises sign.

On-premises sign. A sign advertising or indicating any activity, business, goods, place, product, or services that are located or conducted on the premises where the sign is erected or placed.

One-time event. Any gathering, meeting, social occasion, sale, vote, issue, determination by a public or private body, or function and any process that has a beginning time and culminates in an event or completion of the process. One-time events may involve either commercial or non-commercial activities.

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.

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. Any device, fixture, placard, structure, or object that uses color, form, graphics, illumination, architectural style or design with text, or writing to advertise, attract attention, announce, or identify the purpose of any person or entity, or communicate information of any kind to the public. For purposes of this definition, the term "sign" shall include a sign's structure.

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, non-illuminated. 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 not permanent in construction or nature and is intended to be displayed for a limited time or for a one-time event, including special event signs. (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 the northeast corner of the intersection of Greenville Highway and Avon Street (SR 1826); (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 Studio 52 education center (PIN: 9577127911); and (c) West Blue Ridge Road (SR 1812) from its intersection with Greenville Highway, east to a point at the southeast corner of the Singleton Center 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 sign")

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.

Any term not defined herein shall have the meaning for such term provided in the Land Development Ordinance of the Village of Flat Rock, North Carolina.

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.
- Traffic, warning, regulatory and informational signs including, building identification, event notice, community promotion, directional and welcome signs on private property or along private roads in a subdivision that have been approved and installed by a duly constituted property owners association for that subdivision, provided any such signs are not displayed as an advertising device and conform to the requirements of Section 606 regarding subdivision or multifamily identification signs.
- Signs (except a window sign) located entirely within the premises of a building, enclosed space or athletic field.
- A flag, 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.
- Wall signs and signs on residential mailboxes for the purpose of identifying the address for 911 and emergency purposes.

- 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.
- Non-illuminated window signs denoting hours of operation, emergency telephone numbers, credit card acceptance information, and "open" - "closed" signs.

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 and signs approved and installed by a duly constituted property owners association that are exempt from this ordinance under Section 601.
- Any sign, including a mobile/portable 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, or that is located in any manner or place so as to impede or constitute a hazard to vehicular 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, and flags (except those flags that are exempted in Section 601, and those exempted in Section 603).
- Animated signs.
- Revolving signs.
- Billboards.
- Abandoned signs.
- Signs that emit sound, vapor, smoke, odor, particles or gaseous matter.
- Directly-illuminated signs.
- Off-premises signs except as provided in Section 603.
- Any nongovernmental sign resembling a public safety warning sign or traffic signal, except signs approved and installed by a duly constituted property owners association that are exempt from this ordinance under Section 601.

- 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.
- 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 and are allowed in all areas of the Village unless specifically prohibited. 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.

- Banners and feather flags displayed for a period of time not to exceed 10 days in celebration of festive events such as, but not limited to, anniversaries, birthdays, returning service personnel, weddings, and other special events.

Signs may be placed on private property only with the express consent of the property owner.

Signs must be at least two feet from the public right-of-way and fifteen feet from rear and side property lines.

- 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.
- Temporary signs, provided that:

Signs shall not exceed a maximum of three square feet or 42” in height and shall be located so as not to impair an individual's ability to safely see other vehicles or to see pedestrians at intersections, driveways, crosswalks, or alleys.

Signs may be placed on private property only with the express consent of the property owner.

Signs must be at least two feet from the public right-of-way and fifteen feet from rear and side property lines. 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. Where governmental signs are placed more than ten feet from the edge of the traveled way, for purposes of this ordinance the right-of-way shall be deemed to be a strip of land the width of which is the distance between the governmental sign and the edge of the traveled way, and the length of which shall be twenty-five feet in each direction from the governmental sign in a line parallel to the edge of the traveled way.

- 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.
- On-premises directional and informational signs in nonresidential districts or in multitenant residential developments provided any such sign does not exceed three square feet in area and four feet in height. Such signs shall be non-illuminated and shall not contain corporate logos.
- On-premises, informational mobile/portable signs in nonresidential districts, provided any such sign does not exceed four square feet in area and four feet in height. Such sign shall be placed no more than ten feet from the entrance to the business establishment to which it pertains, and no less than ten feet from the edge of the traveled way, and shall be removed each day no later than the close of business conducted on the premises.
- Off-premises directional signs directing the public to a one-time event, providing that such signs may be posted only for the duration of such event and no such sign may be posted within the Village Center.

For the purpose of public information, please refer to NCGS 136-32 for regulations of signs placed in the NCDOT right-of-way.

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, except those set out in Section 603, shall conform to the general requirements of this section.

Inconsistency. 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 this ordinance.

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

Content-neutrality. Notwithstanding anything contained herein to the contrary, no sign or sign structure shall be subject to any limitation based upon the content of message on the sign or the viewpoint expressed in such message.

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-premises 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 message. 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. Any lawfully existing sign with a commercial message may, at the option of the owner, contain a noncommercial message unrelated to any business located on the premises.

Area of sign. 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 sign. 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.

Color. 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.

Logo. 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 sign. A window sign may not cover more than twenty percent of the gross glass area on anyone side of the building. For the purposes of this ordinance, a window sign shall be considered a wall sign.
- Changeable copy sign. A changeable copy section or component of a freestanding, on-premises 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 sign. 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-premises, freestanding identification sign is permitted on one or both sides of each entrance into a subdivision or multifamily 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 non-illuminated 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 the use of property. One on-premises, 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-premises, 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 non-illuminated 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 sign. One freestanding, on-premises 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-premises 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-premises sign on the same premises. Such sign may be non-illuminated or indirectly illuminated.

Attached sign. 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 non-illuminated 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:

Attached sign. 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 non-illuminated or indirectly illuminated.

Directory sign. A multitenant property owner is allowed one freestanding directory sign per entry to the multitenant development from a public street for listing the development's tenants, occupants, floor plan addresses or suite numbers, or any combination thereof, and may include changeable copy. A directory sign may not exceed a maximum of thirty-two square feet in area or twelve feet in height and shall be set back from the adjacent right of way, but not less than ten feet from the edge of the traveled way. Such sign may be non-illuminated or indirectly illuminated.

Directional signage. A multitenant property owner may place, or may allow a tenant to place, on-premises directional signage within a multitenant development, provided the directional sign is a minimum of thirty-five feet from any directory sign at an entrance from a public road, or in the absence of a directory sign, a minimum of thirty-five feet from the edge of the traveled way. The maximum number of directional signs is limited to no more than the number of buildings on the site. In addition, the directional sign may be no larger than three square feet. The directional sign may include changeable copy.

No directional sign shall be placed in a position that will obstruct the view of any other on-premises sign. No directional sign shall be placed within thirty-five feet of an intersection of two public streets or roads, or in any location that, in the judgment of the Sign Enforcement Officer, will be distracting to passing motorists or will otherwise adversely affect public safety.

Existing sign. Nothing contained herein shall affect any legally permitted on-premises sign installed prior to the effective date of this ordinance.

Modification of setback requirement. Notwithstanding the setback requirement of not less than ten feet from the edge of the traveled way for freestanding signs in both single tenant and multitenant developments, if in the judgment of the Sign Enforcement Officer, such setback would be impractical because of the close proximity of on-premises improvements to the edge of the traveled way, the minimum distance may be reduced to no less than five feet from the edge of the traveled way; provided, however, that such setback would not result in an obstruction of the view of oncoming traffic from either direction, impede ingress or egress, or otherwise adversely affect public safety; and provided further, that the placement of such sign, if in the public right of way, has the approval of the North Carolina Department of Transportation.

**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, and, upon notification from the Sign Enforcement Officer of such damage, all sign repairs must be initiated within thirty working days and completed within sixty working 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, and, upon notification from the Sign Enforcement Officer of such damage, all sign repairs must be initiated within thirty working days and completed within sixty working 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, and, upon notification from the Sign Enforcement Officer of such obstruction, all sign repairs must be initiated within thirty working days and completed within sixty working days.

No illuminated sign shall be allowed to stand with only partial illumination, and, upon notification from the Sign Enforcement Officer of such damage, this sign repair must be initiated within thirty working days and completed within sixty working 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 upon notification from the Sign Enforcement Officer 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 in accordance with Section 901.

The purpose of the permit is to determine whether the sign complies with this ordinance in all respects, and the Sign Enforcement Officer does not have discretion in regard to issuance of a permit that does comply with this ordinance.

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. The Sign Enforcement Officer shall review each application and grant or deny the requested permit within fifteen days of receipt of a complete permit application. If the Sign Enforcement Officer does not make a determination to grant or deny the requested permit within this time period, the application shall be deemed to be approved.

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 within 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, who shall report to the Village Administrator, 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, the Village Administrator 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. Such notice of violation shall set out the nature of the violation and shall contain an order immediately to cease the violation. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the Sign Enforcement Officer, the notice of violation shall be served on the sign owner or his agent. A copy of the notice of violation shall also be served on the owner of the property upon which the sign that is the subject of the notice is located.

Service of notice of violation; affidavit of service. Service of a notice of violation under this ordinance shall be either in person or by first class United States mail, postage prepaid and addressed, (a) if to the sign owner, to the last known address as contained in the Village records or as obtained from the sign owner or his agent; and (b) if to the property owner, to the address appearing in 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. The Sign Enforcement Officer shall execute an affidavit describing the method and date of service. The violator shall be deemed to have been served upon the personal service or mailing of the notice of violation.

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 NCGS §160D-404 (Enforcement.), 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 and served on the violator as herein above provided.
- (2) If a violation for which a notice of violation is served on a sign owner and a property owner is cured but is repeated within a two-year period from the date of the initial notice of violation, it shall be considered a continuation of the initial violation and shall be subject to additional penalties and remedies as set forth in this ordinance. A repeat violation is one that is identical or reasonably similar to a previous violation for which a notice of violation or civil citation has been issued.
- (3) The violator may file an appeal from a notice of violation. Such an appeal shall be filed within thirty 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 in accordance with Section 901. The decision of the Board of Adjustment is subject to review in the Superior Court of Henderson County in the nature of certiorari.
- (4) 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.
- (5) Upon failure of the violator to comply with the notice of violation within thirty 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.
- (6) 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.
- (7) 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 Village Administrator, the Board of Adjustment or the Village Council.

Removal of dangerous signs

Pursuant to NCGS §160D-402. (Administrative staff, (b) Duties) and § 160D-1104. (Duties and responsibilities.). The Sign Enforcement Officer shall have the authority to summarily remove, abate or remedy a sign that 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. Except as hereinafter provided, 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. Where governmental signs are placed more than ten feet from the edge of the traveled way, for purposes of this ordinance the right-of-way shall be deemed to be a strip of land the width of which is the distance between the governmental sign and the edge of the traveled way, and the length of which shall be twenty-five feet in each direction from the governmental sign in a line 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.

901. Appeals and variances

- (A) Board of Adjustment. The Board of Adjustment shall hear and decide all appeals from any final and binding order, requirement, determination or other decision 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, and hearings. Filing notices of appeal and variance applications and the hearings on such matters shall be in accordance with Article XV of the Village Land Development Ordinance. 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 a final and binding order, requirement, determination or other decision by the Sign Enforcement Officer.

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 unnecessary 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) Matters not consistent with the ordinance. Variances from the requirements of the following matters should not be considered as being consistent with the spirit, purpose and intent of the ordinance: maximum allowable sign area, total number of signs, sign illumination and public safety regulations.

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.

904. 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 Village Administrator, 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 this ordinance imposes more restrictive standards than are required under any North Carolina statute, or any other ordinance of the Village, the requirements of this ordinance shall govern. Whenever any statute, or any other ordinance of the Village requires more restrictive standards than are required by this ordinance, the provisions of such statute or ordinance 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 take effect and be in force on and after June 30, 2021.

Michelle Parker, CMC
Village Clerk

Nick Weedman
Mayor

APPROVED AS TO FORM:

Sharon B. Alexander
Village Attorney