

MEMORANDUM

TO: Charlie Johnson, Code Enforcement
Village Clerk
Martha Sempowski, Chairperson,
Historic Preservation Commission

FROM: Stephen M. Kruk

RE: Village of Lima Local Law No. 2 of 2014
Sign and Billboard Local Law

Transmitted with this memorandum is a copy of the local law referenced above.

In a slightly different form, this law was actually adopted as a local law by the Village Board in 1999. We have been enforcing this law since that time. In 2009, in the process of adoption of the new zoning local law, the substance of this local law was mistakenly omitted. No one noticed the omission until a few months ago.

I have recommended that the Village Board re-enact this law. Mayor Luft has asked that I forward the law to the Historic Preservation Commission members for review and comment.

I also note that Charlie Johnson is presently working on a new local law that will address all Village signage. It has not yet been presented to the Village Board, and adoption would likely be at least a few months away. When and if the new sign law is adopted, it will revoke and annul other enactments concerning Village signage, including this law.

Let me know if you have any questions.

VILLAGE OF LIMA LOCAL LAW No. 2 of 2014

A LOCAL LAW regulating certain signs and billboards within the Village of Lima.

Be it enacted by the Village Board of Trustees of the Village of Lima as follows:

Section 1. Title.

This local law shall be known as the Sign and Billboard Local Law of 2014.

Section 2. Authority and Purpose.

This local law was originally enacted by the Village of Lima Board of Trustees in 1999. Upon recodification of the Village of Lima Zoning Code in 2009, the content of the 1999 Sign and Billboard Local Law was inadvertently omitted from the codification, although it continued to be enforced. This local law confirms and reinstates the substance of the 1999 local law.

This local law is authorized by the New York State Village Law, and is a police power and land use regulation of local concern only.

The specific purpose of the local law is to authorize “sandwich board” style advertising signs, to authorize a new specific category of structural sign to be called a “public interest sign” within the Village of Lima, and to create a “grandfathered” class of signage as specifically noted. Except as changed herein, all other portions of the existing Zoning Code remain unaffected by this legislation.

Section 3. Freestanding “Sandwich board” style signs permitted in DB Downtown Business District and GB General Business District.

A. Freestanding “sandwich board” style signs of temporary nature and use advertising a local adjacent business shall be permitted only in the DB Downtown Business District and GB General Business District, as provided and regulated hereinbelow:

1. No freestanding sign larger than eight square feet shall have less than three feet of open space at the bottom extending its entire length, except that a freestanding “sandwich board” style sign properly located within a DB or GB District may measure up to twelve (12) square feet in size and may have less than three (3) feet of open space at the bottom.

2. In matters of setback from the street or road, required yards and other such respects, freestanding signs larger than eight square feet shall be regarded as buildings within the meaning of this chapter, except that a freestanding “sandwich board” style sign properly located within a DB or GB Districts shall be exempted from this provision.

3. Back-to-back signs, identical signs arranged back-to-back or diverging by less than 30 degrees from a common line or point, or “sandwich board” style signs, whether or not each side

shows identical advertising or identifying material, may be counted as one sign.

B. Nonconforming signs are to be removed within ninety (90) days of the date of the adoption of this local law. Any nonconforming sign which is nonstructural and portable in nature (e.g., banners, pennants, spinners, portable signs, etc.) shall be removed within 90 days of the effective date of this chapter, except that:

1. any portable, freestanding sign **owned, used and maintained by a not-for-profit corporation or charitable organization**, illuminated from within, and in use and in existence as of the date of the amendment of this chapter may be maintained for use but may not be replaced when it is no longer in working order or shall be retired from use because of appearance or condition.

2. A flag sign, being a sign constructed of fabric or material and suspended from a pole or projection attached to a building shall be permitted only in the DB Downtown Business District and GB General Business District. The flag sign must be attached to the building in which the business is operated, and the sign shall be permitted only to use the word "open" to signify that the premises are currently open for business. If the business is closed, the sign may not be displayed. The sign must be no larger than fifteen (15) square feet in total area, and must be approved by the Code Enforcement Officer.

C. Special Provisions Relating to "Sandwich Board" Style Signs.

(1) Sandwich Board style signs shall only be authorized or permitted within the DB Downtown Business District and GB General Business District and in no other zoning district or area, *except and unless* a building or parcel in another zoning district or area is properly operated as a valid preexisting, and nonconforming use of that building or parcel for retail or commercial purposes as of the date of adoption of this local law. In such case, if said valid, preexisting and nonconforming use is situated outside the DB District or GB District, the parcel or building shall be eligible to maintain one sandwich board style sign.

(2) Such signs shall be permitted by the Code Enforcement Officer by written permit valid for a period of one (1) year. Such permit shall identify or provide the following information:

(a) the location of the proposed sandwich sign, indicating the name of the business and the street address of the business served by the sign; and

(b) the name and address of the owner of the land on which sign is to be located, along with the written consent of said owner to place such sign, and the name and address of the proprietor of the business for which the sign is sought, if said parties are not the same; and

(c) a brief explanation of the nature of the business.

(3) Sandwich board signs shall be allowed on any parcel or site located within the DB Downtown Business District and GB General Business District, even if the parcel is *not* the site of the business advertised or serviced by the sign. *Only one* sandwich board sign may be located

on a parcel or property other than that upon which the business is operated. It shall not be permitted to place or locate more than one sandwich board sign on any one tax parcel at one time, except or unless as provided in subsection 5 below.

(4) Only one sandwich sign may be permitted for each business located in the village.

(5) Only one sandwich sign may be permitted for each property location or site (defined as a tax identifier map parcel). However, if two (2) or more businesses operate from one site (or tax identifier map parcel) each side of the sandwich signboard can be prepared so as to identify one of the businesses. If more than one business operates from one parcel, but that parcel is actually divided into more than one business site, such that it is separated by different entrances and display areas and windows, different management or employees, and is reasonably distinct and apart from the adjoining business or businesses operating from the same tax identifier map parcel, the property shall be eligible for one sandwich sign for each of the separate businesses operating. This limitation is specifically intended to prohibit the proliferation of signs for multiple operations or business enterprises that may mutually share one storefront or office space.

(6) At all times, the sign must be maintained in a neat and clean condition, and must pertain only to the business operating from the adjacent building or site.

(7) No sandwich board style sign may be positioned in the public sidewalk so as to unreasonably interfere with or obstruct traffic, pedestrian or vehicular, as shall be determined in the reasonable discretion and judgment of the Code Enforcement Officer.

(8) All sandwich board style signs must be removed from the sidewalk or any other exterior area appurtenant to the business for which the sign is maintained no later than the close of the normal business day of the business enterprise advertised by such sign. A sandwich board sign may not be present outside the business serviced or advertised by the sign after sunset or before dawn irrespective of the hours of operation of the business serviced or advertised by the sign *unless* the sign is appropriately illuminated by existing, or ambient lighting sources, eliminating any danger of interference with pedestrians or vehicles that might not otherwise see the sign within the sidewalk area or area appurtenant to the business. If the sign cannot be seen or read without difficulty, in the reasonable discretion of the Code Enforcement Officer of the Village of Lima, it cannot remain in that location after dusk. After the business serviced or advertised by the sign is closed for the day, the sandwich board sign must be brought indoors and may not be left outside, regardless of whether the sandwich board sign is in an "open" or "closed" position.

(9) No sandwich board sign shall be permitted that exceeds five (5) feet in height when such sign is in an "open" position.

(10) All sandwich board signs in existence as of the date of adoption of this amendment may continue to be used for a period of three (3) years, irrespective of their compliance with the requirements hereof relating to the size and dimensions of such signs. If the size and dimensions of such sandwich sign do not conform to the requirements of this section as of the date which is three (3) years following its adoption, then the sign must be removed and may no longer remain in use. If a sandwich sign otherwise fails to conform to the requirements of this section as of the date of the adoption thereof, it must be removed and may no longer remain in use.

D. Special Provisions Relating to Public Interest Signs.

(1) A public interest sign shall be identified and described as a sign owned, used, maintained and operated by a *public entity* including any municipal government or instrumentality of the municipal government (such as a school district, public authority, special district, fire department, etc...) or a validly constituted and incorporated not-for-profit corporation or membership organization, such as a church, synagogue, or service club. A public interest sign shall be a sign that is used predominantly if not exclusively for advertisements that are a service to the public, or that advertise or publicize special community events or occurrences, rather than advertise a product or service or business, or promote other commercial purposes. A public interest sign cannot be rented to third parties for advertising purposes or for the exclusive purpose of generating rental income for the sign owner if the advertisement is not primarily for public purposes; if a sign is used or maintained primarily for advertising purposes or to promote commercial purposes, it cannot be deemed a public interest sign.

(2) A public interest sign shall be authorized and allowed only within the DB Downtown Business District and GB General Business District of the Village of Lima, or on any site owned and operated by a not-for-profit corporation or membership organization such as a church, synagogue or service club. Only a site owned and operated by such public entity or direct affiliate of such public entity shall be eligible to be improved by a public interest sign. The base of the sign or the structure to which it is attached must be located entirely within or behind the sidewalk area fronting the parcel to be served by the sign. If no sidewalk fronts the property to be improved by a public interest sign, the base of the sign or structure to which it is attached must be located no closer than forty (40) feet from the edge of the legal right of way or road upon which the improved parcel fronts.

(3) Public interest signs shall be freestanding or structural signs of good and permanent quality, similar to any other permanent sign permitted by this Code within the Village of Lima. No public interest sign may be larger than 32 square feet on either side. At least three (3) feet of open space must be observable between the point that the sign pole or post enters the ground or its point of mooring, and the bottom of the sign. The top of the sign or the structure to which it is attached shall not exceed ten (10) feet in height. The sign may be illuminated by interior illumination or appropriate exterior downlighting, but no flashing lights or intermittent or pulsating lights will be permitted under any circumstances.

E. Registration of Complaints Concerning Signage

(1) All inquiries requiring action or complaints concerning the location, size, nature or use of signage as regulated by this Section, other than those initiated by a Village trustee or the Village attorney or Mayor, shall be directed to the Village Code Enforcement Officer. All such complaints shall be in written form and signed by the complainant.

(2) Notwithstanding the foregoing, there shall be no restriction placed on the Village Code Enforcement Officer that would impair his ability to take action for the violation of any provision or term of this Section without receipt of a written complaint from a third party.