

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village  
(Select one.)

of NEW WINDSOR

Local Law No. \_\_\_\_\_ of the year 20<sup>23</sup>

A local law to define and regulate commercial electronic variable message displays (a/k/a digital signs)  
(Insert Title)  
in the Town of New Windsor.

Be it enacted by the TOWN BOARD of the  
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village  
(Select one.)

of NEW WINDSOR as follows:

## SECTION 1.

### PURPOSE & INTENT.

The purpose of this chapter is to define and regulate commercial variable message displays, a/k/a digital signs, in the Town of New Windsor in order to preserve and protect the safety, health, welfare and rights of its residents, occupants, visitors and established places of business.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

## **SECTION 2**

### **AUTHORITY.**

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law 10, the New York State Town Law, and in accordance with Chapter 300, Article XV, Amendments, of the Code of the Town of New Windsor and shall supercede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

## **SECTION 3.**

### **AMENDMENTS TO ARTICLE VIII "SIGNS" ARE AS FOLLOWS, ALL OTHER SECTIONS OF ARTICLE VIII REMAIN UNCHANGED:**

#### **§300-43, Permit exceptions, shall be amended to read as follows:**

- (A) The changing of the advertising copy or message on an existing approved painted or printed sign, marquee, changeable copy sign or a similar approved sign, whether electrical, illuminated, variable message display (i.e., digital or electronic), or nonilluminated painted message, which are all specifically designed for the use of replaceable copy.
- (D) No Town erected sign shall require a permit for same.

#### **§300-45, Permitted accessory signs, shall be amended to read as follows:**

##### **A. Nonresidential zoning districts (AP, NC, HC, LC OLI, and PI).**

##### **(1) Freestanding signs.**

- (a) For any nonresidential business site, permitted by right, by special permit or by variance, one freestanding, indirectly illuminated sign supported by an ornamental post or base set in the ground behind the property line or sidewalk line so as to be free of pedestrian traffic, not obstruct sight distance or otherwise pose a hazard or be a nuisance, or one similarly freestanding variable message display, shall be permitted.
- (b) Such signs shall not exceed 64 square feet, total all faces, nor be more than 15 feet above ground level, measured from the top of the sign to the average ground level at the sign base.

- (d) If the site has two main vehicular entrances, the Planning Board may approve, at its discretion, one additional full-size freestanding sign, or freestanding variable message display, at the second entrance, but in no case shall the signs be spaced closer than 300 feet (measured along the road frontage).
- (e) Variable message displays within the Town of New Windsor shall, with regard to issues concerning display timing, placement, visibility and legibility, be guided by applicable state and federal guidance in effect at time of installation, including but not limited to that contained within the Manual on Uniform Traffic Control Devices (MUTCD) and that issued by the NYS Office of Traffic Safety and Mobility and Federal Highway Administration.
- (i) Display Visibility: Visibility is the distance at which a motorist can first detect a sign on the roadway. Components of visibility include the ease in which a sign can be detected and how well it attracts the driver's attention (target value); the ease in which the message can be seen (brightness); the ease in which the message can be read (legibility); and the ease in which it can be read from the side (cone of visibility). To the extent any specific values are required to meet these components of visibility, they are set forth elsewhere within this Article, except for brightness, which is discussed here. Brightness (or luminance) is the amount of light that is coming from a variable message display. All variable message displays must include technology that automatically and continuously monitors ambient light levels and adjusts the brightness of the display so that any such display is legible at all times during daylight or nighttime, unless impracticable given various weather conditions that are understood to affect brightness. No such display shall allow for manual overriding of light intensity. Certification must be provided to the Town Building Department demonstrating that any such display has been preset to automatically adjust the brightness to allow for continuous visibility, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method. In the event of a complaint, Code Enforcement may require reinspection and recalibration in its reasonable discretion, at the owner's expense, to ensure that proper brightness levels are maintained at all times.
- (ii) Display Placement: Variable message displays shall be plainly visible to motorists traversing the roadways upon which they face; they shall not impede the path of traffic or emergency vehicles; they shall be raised so that the bottom of the display is at a minimum height of five (5) feet off the surface, which shall be level; they shall be turned towards the view of oncoming motorists, at an approximate five (5) to ten (10) degree angle perpendicular from the road's centerline; and if more than one (1) such display is visible to a driver at the same time on either side of the roadway, the displays must be spaced at least 2500 feet apart on

controlled access highways and at least 300 feet apart on all other types of roadways.

- (iii) **Display Legibility:** Variable message displays must be legible from a minimum of 650 feet from all lanes within roadways less than 45 MPH, and 1000 feet from all lanes for roadways with speed limits 45 MPH or more. Messages on such displays may not contain the appearance of motion or animation, though transitions between messages may contain the appearance of motion or animation.
- (iv) **Display Timing:** Motorists' exposure time to a variable message display message must always be equal to or greater than the message display time. Depending upon the speed of the roadway, message length must be adjusted to ensure the display time fits within the exposure time and affords motorists time to read the complete message twice. The minimum display time for a variable message display panel is 1.5 seconds, with a customary time interval of 2.0 seconds or longer per panel, as per the MUTCD.
- (v) **Other requirements:** The use, size and location of electronic variable message displays must comply with all other relevant regulations and laws of the Town and may only display messages about goods, services or events that are sold by or sponsored by the owner/occupant of the property where the display is located, with exceptions made only for the display of messages about public emergencies, public events and the recruitment for volunteer public emergency and fire services. Variable message displays may not be used to display messages that would be considered obscene, per NYS Penal Law Article 235, or messages containing any offensive sexual material, per NYS Penal Law §245.10, 245.11 and 245.15.

(2) **Facade signs.**

- (a) For any nonresidential business site, in addition to any permitted freestanding signs, one sign for each permitted business, whether static or variable message display type, may be located on the building facade, with the sign face not to exceed 3.5 feet in height and 12 feet in width, or 42 square feet of total surface area, whichever is greater. Any such variable message display must comply with all the same regulations discussed above in §300-45(A)(1), Freestanding signs.

(3) **Temporary signs.**

- (a) Temporary signs, whether static or variable message display type, shall not exceed 64 square feet, total all faces (unless otherwise specifically noted), and may be displayed for not more than 45 consecutive days in any consecutive twelve-month period, except as permitted under Subsection

**A(3)(c) and (d) below.** Any such variable message display must comply with all the same regulations discussed above in §300-45(A)(1), Freestanding signs.

(b) One real-estate-type temporary sign, whether static or variable message display type, shall be permitted for any structure for sale, lease or for rent, provided that such sign is located entirely on the property to which the sign applies, with such sign not to exceed six square feet, total all faces, and not to exceed six feet in height. Such use shall cease within 30 days after sale or rental is consummated and any such variable message display must comply with all the same regulations discussed above in §300-45(A)(1), Freestanding signs.

(c) One temporary subdivision or site plan development sign in connection with the marketing of lots or structures in a subdivision or site plan application shall be permitted, whether static or variable message display type, subject to the following conditions:

[i] Such permits may be issued for a period not to exceed one year for each permit, upon written application at least 30 days prior to its expiration.

[ii] Legend. The sign may contain advertising in connection with the name of the subdivision, development, firm, building contractor or real estate sales firm and may refer to materials, appliances, supplies and building trades used in the construction of the dwelling units or services provided by the developer.

[iii] No such sign shall be permitted to remain in one subdivision for the purpose of advertising the sale of lots or structures in another subdivision.

[iv] Such signs are not to exceed 64 square feet, total all faces, nor be more than 15 feet above ground level, measured from the top of the sign to the average ground level at the sign base.

[v] The temporary development sign use shall cease within 30 days after the sale of the last subdivision lot or rental/sale of the last site plan structure/occupancy.

[vi] Any such variable message display must comply with all the same regulations discussed above in §300-45(A)(1), Freestanding signs.

(4) Portable signs.

(a) A new business, or a business in a new location, awaiting installation of a permanent sign may utilize a portable sign, whether static or variable message display type, for a period of not more than 60 consecutive days

or within 30 days from installation of a permanent sign, whichever occurs first. One thirty-day extension will be permissible, if approved by the Code Enforcement Officer.

- (e) Any portable variable message display must comply with all the same regulations discussed above in §300-45(A)(1), Freestanding signs.
- (f) Portable signs are not permitted other than for that use noted under Subsection A(4)(a) above.

B. Residential zoning districts (R-1, R-2, R-3, R-4, R-5 and the CL-1 Zones).

(1) Freestanding signs.

- (a) For any nonresidential business site permitted in a residential zoning district, or multiple-residence development permitted by right, by special permit or by variance, one freestanding, illuminated sign supported by an ornamental post or base set in the ground behind the property line or sidewalk line, so as to be free of pedestrian traffic, not obstruct sight distance, or otherwise pose a hazard or be a nuisance, shall be permitted. No variable message displays shall be permitted, unless express written approval is granted by the Town's Zoning Board of Appeals.
- (e) If a multiple-residence development has more than one main vehicular entrance, the Planning Board may approve, at its discretion, additional full-size freestanding signs at the additional entrances, but in no case shall the signs be spaced closer than 300 feet (measured along the road frontage), nor shall any such sign be of the variable message display type.

- (2) Facade signs. For any nonresidential business site, in addition to any permitted freestanding signs, one sign for each permitted business may be located on the building facade, with the sign face not to exceed four square feet. No variable message displays shall be permitted, unless express written approval is granted by the Town's Zoning Board of Appeals.

**§300-46, Prohibited Signs, shall be amended to read as follows:**

The following types of signs or artificial lighting are prohibited:

- B. Flashing signs, including any sign or device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use, or signs including materials which move or appear to move, unless such signs are deemed variable message displays permitted by this Article.
- D. Signs which compete for attention with or may be mistaken for a traffic signal, or signs which purport to be or are an imitation of or resemble an official traffic sign or signal, or which bear the words "stop," "go slow," "caution," "warning" or words to this effect.
- F. Unless expressly allowed for elsewhere in this section, signs made of cardboard, paper, canvas or similar impermanent materials.
- G. Outdoor advertising boards that either have a custom printed graphic panel or poster holder attached to hinges on the frame that allow the "sign" to swing with the wind.
- I. Signs which bear or contain statements, words or pictures of an obscene, pornographic or immoral character, as defined and prohibited in NYS Penal Law Article 235 or NYS Penal Law §245.10, 245.11 and 245.15, or which contain false advertising, as defined in NYS General Business Law §350-a.
- J. Inflatable signs, figures or objects which compete for motorist attention.

**§300-49, Public Areas, shall be amended to read as follows:**

No sign shall be permitted, which is placed on public property or over or across any street or public thoroughfare, except by the Town of New Windsor or as may otherwise expressly be authorized by this article.

**§300-50, Exempt Signs, shall be amended to read as follows:**

The following signs are exempt from the permit requirements set forth by this article, except that, where noted, size, quantity and other indicated limitations shall apply for the specific type of sign, and maintenance of all signs, as described elsewhere in this article, shall still be required:

- B. Nonelectrical, nonilluminated, directional or instructional signs as reasonably necessary to provide direction or instruction and located entirely on the property to which they pertain; signs identifying restrooms, public telephones or walkways; or signs providing direction, such as parking lot entrances and exits; except that, where a project is subject to site plan review, at the sole discretion of the Code Enforcement Officer, these type signs may require application to the Planning Board for approval.

- C. Flags, emblems or insignia-type signs of any nation, state, political subdivision, or corporation. The maximum permitted height for these type signs shall be 25 feet in residential zones and 35 feet in nonresidential zones. No more than three such signs (flags, emblems or insignia) in total shall be installed (displayed), unless the additional signs are approved by the Planning Board as an element of a site plan.
- R. Political campaign signs announcing the candidates seeking public office and other data pertinent thereto, up to an area of 32 square feet for each lot. All such signs shall be confined to private property and removed within fourteen (14) days after the election for which they were displayed.
- S. All governmental signs and variable message displays designed and used to advertise or announce any governmental sponsored events, functions and/or services.

**§300-51, Construction specifications, shall be amended to read as follows:**

All signs shall comply with applicable provisions of the New York State Uniform Fire Prevention and Building Code and the National Electrical Code, year of latest revision, and the additional construction standards hereinafter set forth in this section.

**§300-53, Sign anchoring, shall be amended to read as follows:**

No sign shall be suspended by chains or other devices that will allow it to swing due to wind action. All signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

**§300-55, Removal of signs by Town, shall be amended to read as follows:**

- A. The Code Enforcement Officer shall cause to be removed any sign that, in the Officer's sole discretion, endangers the public safety: this shall include, but not be limited to, signs that are abandoned; dangerous; materially, electrically or structurally defective; and those for which no permit has been issued.
- B. The Code Enforcement Officer shall prepare a notice, which shall describe the sign, specify the violation involved, and state that if the sign is not removed or the violation is not corrected within 30 days, it shall be removed in accordance with the provisions of this section. All notices mailed by the Code Enforcement Officer shall be sent by certified mail, return receipt requested to the last known address of the property owner or occupant. Any time periods provided in this section shall be deemed to commence on the date of the mailing of the certified mail.
  - (1) For all signs, the aforementioned notice shall be mailed to the address where the sign is located and/or believed to be associated, and to the owner of the property on which the sign is located as shown on the last equalized assessment roll. Any person having an interest in the property on which the sign is located may appeal the determination of the Code Enforcement Officer



ordering removal or compliance by filing a written notice of appeal with the Zoning Board of Appeals within 30 days after receipt of the notice.

- (2) In case of nuisance signs, which Code Enforcement deems a temporary and insubstantial value, including but not limited to paper, cloth, flags or cardboard signs affixed to telephone poles or stuck in the ground, the Code Enforcement Officer may remove such signs on the spot or direct the immediate removal of same without notice.

- D. Any sign removed by the Code Enforcement Officer shall become the property of the Town and may be disposed of in any manner deemed appropriate by the Town. The cost of removal by the Town shall be considered a debt owed to the Town by the owner of the property and/or sign, and may be recovered in an appropriate court action by the Town or by assessment against the owner of the property with which it was associated. The cost of removal shall include any and all related expenses incurred by the Town in connection therewith.

**§300-56, Legal nonconforming signs, shall be amended to read as follows:**

- A. Notification of nonconformance. After the enactment of this article, the Code Enforcement Officer shall, as soon as practical, survey the Town for signs which do not conform to the requirements of this article. Upon determination that a sign is nonconforming, the Code Enforcement Officer shall use reasonable efforts to so notify, either personally or in writing, the owner of the property on which it is located of the following:
  - (1) The sign's nonconformity.
  - (2) Whether the sign is eligible for characterization either as legal nonconforming or unlawful.
- B. Signs eligible for characterization as legal nonconforming. Any sign located within the Town limits on the date of adoption of this article, or located in an area annexed to the Town thereafter, which does not conform to the provisions of this article, is eligible for characterization as a legal nonconforming sign and is permitted, provided that it also meets the following requirements:
  - (1) The sign was covered by the permit issued or variance provided on the date of adoption of this article, if one was required under applicable law.
  - (2) If no permit was required under applicable laws, the sign was, in all respects, in compliance with applicable law on the date of adoption of this article.

C. Loss of legal nonconforming status.

(1) A legal nonconforming designation may be lost in the event that:

- (a) The sign is altered in any way in structure or copy (except for changeable copy signs or normal maintenance replacement due to damage, provided that the replaced portion is a duplicate of the original), which tends to or makes it less in compliance with the requirements of this article than it was before the alteration.

D. Legal nonconforming sign maintenance and repair. Nothing in this section shall relieve the owner or user of a legal nonconforming sign, or the owner of the property on which the legal nonconforming sign is located, from complying with the provisions of this article regarding the safety, maintenance and repair of signs; provided, however, that any repainting, cleaning and other normal maintenance or repair of same shall not modify its structure or copy in any way which makes it more nonconforming or the sign may lose its legal nonconforming status.

**§300-57, Special exceptions, shall be amended to read as follows:**

- B. In the event that any party wishes to construct or install a sign other than as permitted in this article, that party shall be entitled to a hearing before the Zoning Board of Appeals. Governing rules for appeals and variances required by the Zoning Board of Appeals shall apply.

**SECTION 4.**

**AMENDMENTS TO ARTICLE XVI OF CHAPTER 300 OF THE TOWN CODE OF THE TOWN OF NEW WINDSOR ENTITLED, "DEFINITIONS", ARE AS FOLLOWS. ALL OTHER SECTIONS OF ARTICLE XVI REMAIN UNCHANGED:**

**§ 300-89, Word usage; definitions.**

- A. Word usage. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot." The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used."
- B. The meaning of all words mentioned in this Code shall assume their common law definition or, if applicable, their definition as set forth in state or federal law, in that order of preference to the extent permitted by law, unless defined below in this article.

- C. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

## **STRUCTURE**

A combination of materials which form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, billboards, display signs, fence(s), fence lines, rock wall(s), retaining wall(s), stairway(s), dikes, landscaping ties/ornamentals and/or appurtenances, tree(s), poles and container(s) and clothes drying lines.

## **VARIABLE MESSAGE DISPLAY (A/K/A DIGITAL SIGN)**

A type of sign or portion thereof where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically or mechanically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.

## **SECTION 5.**

### **CONFLICT WITH OTHER LAWS.**

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Town and the public shall apply.

## **SECTION 6.**

### **SEVERABILITY.**

If any word, phrase, sentence, part, section, subsection or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

## **SECTION 7.**

### **EFFECTIVE DATE.**

This Law shall become effective upon filing with the New York State Secretary of State.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20<sup>23</sup> of the (County)(City)(Town)(Village) of NEW WINDSOR was duly passed by the TOWN BOARD on \_\_\_\_\_ 20<sup>23</sup>, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

**~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20<sup>□□</sup>, in accordance with the applicable provisions of law.~~

**3. (Final adoption by referendum.)**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. (Elective Chief Executive Officer\*)~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

**~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**~~5. (City local law concerning Charter revision proposed by petition.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.~~

**~~6. (County local law concerning adoption of Charter.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

~~Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body~~

(Seal)

Date: \_\_\_\_\_