

Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Horseheads as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Adoption of Code [Adopted 11-16-1995 by L.L. No. 4-1995]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Horseheads, as recodified by General Code Publishers Corp., and consisting of Chapters 1 through 245, together with an Appendix, shall be known collectively as the "Code of the Village of Horseheads," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Horseheads" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Trustees of the Village of Horseheads, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Village of Horseheads in force on the date of the adoption of this local law and not contained in such Code or recognized

and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Horseheads prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Horseheads or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law, brought pursuant to any legislative provision of the Village of Horseheads.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Horseheads.
- E. Any local law or ordinance of the Village of Horseheads providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Horseheads or any portion thereof.
- F. Any local law or ordinance of the Village of Horseheads appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Horseheads or other instruments or evidence of the village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any legislation relating to salaries.

- K. Any local law or ordinance amending the Zoning Map.
- L. Any legislation relating to signs.
- M. Any legislation adopted subsequent to May 15, 1995.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Horseheads and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Village Clerk of the Village of Horseheads by impressing thereon the Seal of the Village of Horseheads, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Village of Horseheads" or any new local laws or resolutions, when enacted or adopted in such form as to indicate the intention of the Board of Trustees to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended,

deleted or changed from time to time as the Board of Trustees deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Horseheads required to be filed in the office of the Village Clerk for use by the public. All changes in said Code and all local laws and resolutions adopted by the Board of Trustees subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws or resolutions until such changes, local laws or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code may be purchased from the Village Clerk of the Village of Horseheads upon the payment of a fee to be set by resolution of the Board of Trustees, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Horseheads or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Horseheads to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for a term of not more than fifteen (15) days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Horseheads, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

- B. In addition, the following amendments and/or additions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)^{EN(1)}

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Village of Horseheads, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

ARTICLE II, General Penalty [Adopted 1-13-2000 by L.L. No. 1-2000^{EN(2)}]

§ 1-14. Legislative intent.

It is the intent of the Village of Horseheads Board of Trustees to provide alternative procedures for the enforcement of the Village Code, or any ordinance, resolution or local law of the village by providing that the violation of the Code, ordinance, resolution or local law shall constitute a violation, and a violator shall be subject to a penalty of a fine, imprisonment, or both; further, in the event that the amount of the penalty is within the monetary jurisdiction of the Justice Court, to authorize the Village Attorney or Enforcement Officer to elect to collect such penalty in either the regular or Small Claims parts of the Justice Court.

§ 1-15. Authorization and effect.

- A. The Village of Horseheads Board of Trustees hereby enacts this article to provide a process for the imposition of criminal prosecution, civil penalties, or both, for the enforcement of the Village Code or any ordinance, resolution or local law of the village.
- B. Whenever in the Village Code or in any ordinance, resolution or local law of the village an act is prohibited or is made or declared to be unlawful, or an offense, or whenever in such Code, ordinance, resolution or local law the doing of an act is required, mandated or the

failure to do such an act is declared to be unlawful, and there is no specific penalty provided therefor, the offense shall constitute a violation as prescribed in § 55.10 of the Penal Law of the State of New York and shall be punishable by a fine as prescribed herein or by imprisonment not exceeding 15 days, or both, and shall also be punishable by a civil fine as prescribed herein, or by both. A violation shall be enforced by either or both of the following:

- (1) Prosecution of a violation by an action to recover civil penalty.
 - (a) If the village elects to prosecute a violation by an action to recover a civil penalty, a civil penalty not exceeding \$250 for a first offense; for a conviction of a second offense involving the particular Code, ordinance, resolution or local law, both of which were committed within a period of five years, a civil penalty of not less than \$250 nor more than \$500; and for a conviction of a third or subsequent offense involving the particular code, ordinance, resolution or local law, all of which were committed within a period of five years, a civil penalty of not less than \$500 nor more than \$1,000.
 - (b) The village authorizes the issuance of a summons pursuant to the Civil Practice Law and Rules of New York State for any violation referred to above. Such summons may be issued by the Village Manager, Code Enforcement Officer, Community Service Officers or other official authorized by the village to assist in the enforcement of the Code, ordinance, resolution or local law alleged to have been violated. An answer to such summons may be made by registered or certified mail, return receipt requested, within 10 days from the date of service of such summons upon the defendant. Such answer will be in lieu of a personal appearance at the time and in the court specified as the return date for such summons, if the person charged admits to such violation and follows the following procedures. If a person against whom a violation has been claimed admits to such violation, such person shall be subject to a civil penalty. Such person may complete the appropriate form authorized by this article and forward such form and summons to the office specified on such summons with a check, cash or money order in the amount of \$100, except that when the person was found to have violated the particular Code, ordinance, resolution or local law within the preceding five years, such check, cash or money order shall be in the amount of \$200, and except that when the person was found to have previously committed two or more such violations within the preceding five years, the amount of the check, cash or money order shall be in the amount of \$300.
 - (c) If a person charged with the violation denies any or all parts of the violation as charged in the summons, such person shall appear in Justice Court as required by the summons and answer the charge(s).

- (2) Prosecution of a violation pursuant to penal law.
- (a) If the village elects to prosecute a violation pursuant to the Penal Law, a fine not exceeding \$250 or imprisonment for a period not to exceed 15 days, or both, for a conviction of a first offense; for a conviction of a second offense involving the particular Code, ordinance, resolution or local law, both of which were committed within a period of five years, punishable by a fine of not less than \$250 nor more than \$500 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense involving the particular Code, ordinance, resolution or local law, all of which were committed within a period of five years, punishable by a fine of not less than \$500 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both.
 - (b) An appearance ticket may be issued by a village official as provided in Chapter 4 of the Village Code, or such official may file an accusatory instrument as provided in the Criminal Procedure Law. An answer to the appearance ticket may be made by registered or certified mail, return receipt requested, within 10 days from the date of service of same upon the defendant. Such answer shall be in lieu of a personal appearance at the time and court specified as the return date of such appearance ticket if the person charged admits to such violation and follows the following procedures. If a person against whom a violation has been claimed admits to such violation, such person shall be subject to a fine. The person may complete the appropriate form authorized by this article and forward such form and appearance ticket to the office specified on such appearance ticket with a check, cash or money order in the amount of \$100, except that when the person was found to have violated the particular Code, ordinance, resolution or local law within the preceding five years, such check, cash or money order shall be in the amount of \$200, and except that when the person was found to have previously committed two or more such violations within the preceding five years, the amount of the check, cash or money order shall be in the amount of \$300.
 - (c) If a person charged with the violation denies any and all parts of the violation as charged in the appearance ticket, such person shall appear in the Justice Court as required by the appearance ticket and answer the charge(s).
- C. Each day and/or time that any violation of any provision of the Village Code, ordinance, resolution or local law of the village exists shall constitute a separate violation for which separate or additional fines, punishment and civil penalties may be imposed and recovered.
- D. In addition to the penalties heretofore provided, any condition caused or permitted to exist in violation of any of the provisions of the Village Code or of any ordinance, resolution or local law of the village shall be deemed a public nuisance and may be abated by the village as

provided by law. Each day that such condition continues shall be regarded as a new and separate violation.

- E. In the event that the penalty sought by the village is within the monetary jurisdiction of the Justice Court, as prescribed in either Article 2 or Article 18 of the Uniform Justice Court Act, such action to recover such penalty may, as shall be determined by the Attorney or Village Manager representing the village, be commenced as a regular or Small Claim pursuant to the provisions of Articles 2 and 18 of the Uniform Justice Court Act.
- F. In addition to the penalties heretofore provided, the village may initiate a civil action for injunctive relief from any condition caused or permitted to exist in violation of any of the provisions of the Village Code or of any ordinance, resolution or local law of the village.

§ 1-16. Repealer.

Any local law, ordinance or resolution of the village in conflict herewith is hereby repealed to the extent of such conflict or inconsistency, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any local law, ordinance or regulation hereby repealed prior to the effective date of this article. Specifically, Chapter 1, Article II of the Village Code is hereby repealed.

Endnotes

1 (Popup - Popup)

Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Ch. 1, General Provisions, Art. I. During routine supplementation, footnotes indicating amendments or additions will be replaced with the following wording: "amended (added) 11-16-1995 by L.L. No. 4-1995." A complete description of the changes is on file in the village offices.

2 (Popup - Popup)

Editor's Note: This local law also repealed former Art. II, General Penalty, adopted 8-11-1977 by L.L. No. 12-1977. See § 1-16.