

Chapter 175, PLANNING PROCEDURES

[HISTORY: Adopted by the Board of Trustees of the Village of Horseheads 10-16-1975 by L.L. No. 7-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention -- See Ch. 102.

Fair housing -- See Ch. 135.

Zoning -- See Ch. 245.

§ 175-1. Planning Board; creation; appointment. [Amended 11-16-1995 by L.L. No. 4-1995; 5-29-2003 by L.L. No. 2-2003]

- A. Establishment. Pursuant to Village Law § 7-718, the heretofore established Planning Board of the Village of Horseheads is reorganized and reconstituted as set forth below. Said Board shall consist of five members, and may consist of not more than two alternate members.
- B. Appointment and term.
- (1) The Mayor shall appoint the members, chairperson, and alternate members of the Planning Board (Board), subject to the approval of the Board of Trustees. The terms of office of the members and Chairperson shall be for five years from the date of appointment, unless the appointee is filling a vacancy in office. The terms of office of the alternate members shall be two years. In the absence of a Chairperson, the Planning Board may designate a member to serve as Chairperson.
 - (2) The current Planning Board is a body of five members comprised of:

Chairperson Robert Skebey

Ray Fortier

Donna Greene

Patti Pautz

Robert Fischer

- (3) This section does not change the terms of office of such members or the respective date of expiration of their terms.
 - (4) No person who is a member on the Board of Trustees shall be eligible for membership on the Planning Board.
 - (5) The terms of the alternate members of the Planning Board first appointed shall be so fixed that the term of one member shall expire at the end of the Village official year in which such members were initially appointed. The term of the remaining alternate member first appointed shall be so fixed that such term shall expire at the end of the next official year. At the expiration of the term of each member first appointed his or her successor shall be appointed for a term of two years.
 - (6) Members holding offices shall, upon the expiration of their term, hold office until their successors shall then be appointed.
- C. Appropriations. The Board of Trustees may appropriate such monies as it deems fit for Planning Board expenses. The Planning Board shall have the power and authority to employ experts, and to pay for their services, and to provide for such other expenses as may be necessary and proper for the conduct of its business, not exceeding all of the appropriations made by the Board of Trustees.
- D. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Mayor shall appoint the new member for the unexpired term.
- E. Removal of members or alternate. The Mayor shall have the power to remove, after public hearing, any member of the Planning Board for cause. A member or alternate may be removed for noncompliance with minimum requirements related to meeting attendance and training as established by the Board of Trustees.
- F. Chairperson duties. All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such Board may determine. In the absence of the Chairperson, the members of the Board may designate an Acting Chairperson. The Chairperson or Acting Chairperson may administer oaths and compel the attendance of witnesses.
- G. Disqualification. No person shall be disqualified from serving as a member or alternate of the Planning Board by reason of serving as a member of the Town or County Planning Boards. A Village official serving as a member or alternate shall not, by reason of such membership, forfeit rights to exercise the powers, perform the duties or receive the compensation of the municipal office he or she holds during such membership.
- H. Secretary. The Confidential Secretary of the Village Manager shall also be the Secretary of the Planning Board, or in lieu thereof, such Secretary shall be the Clerk-Treasurer or Deputy

Clerk.

I. Recommendations. The Planning Board may recommend to the Board of Trustees regulations relating to any subject over which the Planning Board has jurisdiction. Adoption of any such recommendation shall be by local law.

J. Referrals.

(1) The Board of Trustees may, by resolution, provide for the reference of any matter or class of matters, other than those referred to in Subsection I above, to the Planning Board before final action is taken thereon by the Board of Trustees or other office or officer of the Village having final authority over such matter. The Board of Trustees may further stipulate that final action shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time, to be fixed by the Board of Trustees, to submit the report.

(2) The Planning Board shall have the full power and authority to make investigations, maps, reports, and recommendations in connection with the foregoing related to the planning and development of the Village as it deems desirable, provided the total expenditures of said Board shall not exceed the appropriation provided therefor.

K. Alternate members.

(1) Hereinabove, this section provided for the appointment of not more than two alternate members of the Planning Board. Alternate members shall serve in the absence or disqualification of a regular member in the event such member is unable to participate because of a conflict of interest. In the absence or disqualification of a regular member, the Chairperson may designate an alternate member to substitute for a regular member. When so designated, the alternate member shall possess all the powers and responsibilities of such regular member of the Board; such designation shall be entered in the minutes of the initial Planning Board meeting in which the substitution is made. An alternate member so designated to sit shall continue to serve on the Board in all proceedings involving the matter or case for which he or she was initially appointed until the Board has made a final deliberation on that matter or case.

(2) When not designated by the Chairperson to sit, the alternate member may not vote and shall not be compensated, but may participate in any proceeding or discussion of the Board. When designated to sit as due to the reasons noted above, the alternate member shall receive the same compensation for each meeting in which he or she participates as the compensation fixed under this section.

L. Prohibition. No member or alternate may act in any matter in which the member or alternate has any personal or financial interest, either directly or indirectly.

- M. Compensation. Members of the Board shall receive such compensation for each meeting as shall be fixed by the Board of Trustees by resolution or appropriation.
- N. Rules. The Planning Board is authorized to adopt rules for its conduct which are not inconsistent with applicable statutes, local laws, rules of procedure, ordinances and resolutions of the Village.
- O. Training. The Board of Trustees may, by resolution, require members and alternate members to complete training and continuing education courses. Further, the Board of Trustees may establish, by resolution, minimum meeting attendance standards for the members and alternates.

§ 175-2. (Reserved) EN(1)EN

§ 175-3. (Reserved)

§ 175-4. Official Map.

- A. The Board of Trustees of the Village of Horseheads hereby establishes an Official Map of the Village, showing streets, highways, drainage, sewer and water systems and parks heretofore laid out, adopted and established by law. Such map shall be deemed final and conclusive with respect to the location and width of streets, highways, drainage, sewer and water systems and parks shown thereon; and such map is declared to be established to conserve and promote the public health, safety and general welfare. The Village Clerk shall file a certificate of that fact with the Chemung County Clerk.
- B. The Board of Trustees may, as it deems in the public interest, change or add to the Official Map of the Village so as to lay out new streets, highways, drainage, sewer and water systems or parks or to widen or close or add to existing streets, highways, drainage, sewer or water systems or parks.
- C. Before making any change to the Official Map, the Board of Trustees shall refer the proposed change to the Planning Board for a report of its opinion thereon, but if the Planning Board shall not make its report within 30 days of such referral, the Planning Board shall forfeit the right to further suspend the Board of Trustees' action on the proposed change. The Board of Trustees may grant a longer period within which the Planning Board may make its final report. If a longer period is granted, the Board of Trustees, in the absence of such report, shall not proceed to final action until such extension has elapsed.
- D. The granting by the Village Board of Trustees of a petition for the approval of the laying out,

altering, widening, narrowing, adding or discontinuing of a street, highway, drainage, sewer or water system or park shall be deemed to be an addition to or change of the Official Map and shall be subject to all the provisions of this chapter regarding such additions or changes. Such additions and changes, when adopted, shall become a part of the Official Map of the Village of Horseheads and shall be deemed final and conclusive with respect to the location of the streets, highways, drainage, sewer or water systems or parks shown thereon.

E. There shall be a public hearing on any proposed change to the Official Map.

§ 175-5. Building in street beds.

For the purpose of preserving the integrity of such Official Map, no permit shall hereafter be issued for any building in the bed of any street or highway shown or laid out on such map; provided, however, that if the land within such mapped street or highway is not yielding a fair return on its value to its owner, the Zoning Board of Appeals, having the power to grant zoning variances, shall have the power by the vote of a majority of its members to grant a permit for a building in such street or highway which will, as little as practicable, increase the cost of opening such street or highway or tend to cause a change of the Official Map, and the Zoning Board of Appeals may impose reasonable requirements as a condition of granting such permit, which requirements shall inure to the benefit of the Village of Horseheads. Before taking such action as authorized above, the Zoning Board of Appeals shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. Any decision shall be subject to review in the same manner as appeals from decisions of the Zoning Board of Appeals upon zoning regulations.

§ 175-6. Definitions. ^{EN(2)}

As used in this chapter, certain terms shall have the meanings ascribed to them in § 7-728 of the Village Law.

§ 175-7. Advisory power.

For the purpose of providing for the future growth and development of the Village of Horseheads and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population, the Board of Trustees of the Village of Horseheads hereby empowers the Planning Board to advise the Board of Trustees regarding the latter Board's power to approve, modify and approve or disapprove plats showing lots, blocks or sites, with or without streets or highways, or the proposed development thereof.^{EN(3)}

§ 175-8. Submission of preliminary plat.

- A. All plats shall be submitted to the Planning Board for approval in their final form; provided, however, that the Planning Board is empowered to conditionally approve preliminary plats. The owner may submit or the Planning Board may require that he or she submit a preliminary plat for consideration. A preliminary plat shall be clearly marked "preliminary plat" and shall be of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.
- B. The Planning Board shall take action on preliminary plats as provided in § 7-728, Subdivision 5, of the Village Law. Within five days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as having been granted preliminary approval, a copy of which shall be filed in the Village Clerk's office and a certified copy of which shall be mailed to the owner.^{EN(4)}
- C. If the final plat is not submitted within six months of the conditional approval of the preliminary plat, the Planning Board may refuse to approve the final plat.

§ 175-9. Submission of plat in final form. ^{EN(5)}

The Planning Board shall, after the submission of a final plat in final form, approve, modify and approve or disapprove said plat in accordance with § 7-728, Subdivision 6, of the Village Law.

§ 175-10. Reservation of parkland.

Before approval by the Planning Board of a plat showing lots, blocks or sites, with or without streets or highways, such plat or plan of the proposed development shall also show, in proper cases and when required by the Planning Board, a park or parks suitably located for playground or other recreation purposes. If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in any such plat or are otherwise not practical, the Board may advise the Village Board of Trustees to require, as a condition to approval of any such plat, a payment to the Village of a sum to be determined by the Board of Trustees, which sum shall constitute a trust fund to be used by the Board of Trustees exclusively for neighborhood park, playground or recreation purposes, including the acquisition of land.

§ 175-11. Conditions of plat approval.

In approving plats showing lots, blocks or sites, with or without streets or highways, the

Planning Board shall require the following:

- A. The streets and highways shall be of sufficient width and suitable grade and shall be suitably located to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection and to provide access of fire-fighting equipment to buildings and to be coordinated so as to compose a convenient system conforming to the Official Map and properly related to the proposals shown by the Planning Board on the Comprehensive Plan.
- B. The land shown on such plats shall be of such a character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- C. Suitable monuments shall have been placed at such block corners and other necessary points as may be required by the Board, and the location thereof is shown on the map of such plat.
- D. The parks shall be of reasonable size for neighborhood playgrounds or other recreation uses.
- E. All streets or other public places shown on such plats shall be suitably graded and paved; and sidewalks, streetlighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices, including necessary ducts and cables or other connecting facilities, water mains, sanitary sewers and storm drains or combined sewers and storm drains shall be installed, all in accordance with standards, specifications and procedures acceptable to the appropriate Village departments.
- F. A performance bond or other acceptable security sufficient to cover the full costs of the same as estimated by the Planning Board or other appropriate Village departments designated by the Planning Board shall be furnished to the Village by the owner; provided, however, that the Village Board of Trustees may waive, subject to appropriate conditions and guaranties, for such period as it may determine, the provision of any or all such improvements as, in its judgment of the special circumstances of a particular plat or plats, are not requisite in the interest of the public health, safety and general welfare.

§ 175-12. Performance bond.

- A. Such performance bond shall be issued by a bonding or surety company approved by the Board of Trustees of the Village of Horseheads, and such performance bond shall also be approved by the Village Attorney as to form, sufficiency and manner of execution.
- B. Such performance bond shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond may be extended by the Planning Board with the consent of the parties thereto.
- C. If the Planning Board shall decide at any time during the term of the performance bond that the extent of building development that has taken place in the subdivision is not sufficient to

warrant all the improvements covered by such performance bond or that required improvements have been installed as provided in this chapter and by the Planning Board in sufficient amount to warrant reduction in the face amount of said bond or that the character and extent of such development requires additional improvements previously waived for a period stated at the time of fixing the original terms of such bond, the Planning Board may modify its requirements for any or all such improvements, and the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board or any security deposited with the bond may be reduced or increased proportionately.

- D. In the event that any required improvements have not been installed within the term of such performance bond, the Village Board of Trustees may thereupon declare said performance bond to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the Village shall install such improvements as are covered by such performance bond and are commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds. In making such determination regarding streets, highways, parks and required improvements, the Planning Board shall take into consideration the prospective character of the development, whether dense residence, open residence, business or industrial.

Endnotes

1 (Popup - Popup)

Editor's Note: Former § 175-2, Appointments; terms of office; Chairperson, as amended, was repealed 5-29-2003 by L.L. No. 2-2003. See now § 175-1.

2 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

3 (Popup - Popup)

Editor's Note: Former Subsection B, which immediately followed this subsection, regarding Planning Board action on final plats, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

4 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

5 (Popup - Popup)

Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.