

LOCAL LAW #1 OF 2017
A LOCAL LAW AMENDING VILLAGE CODE CHAPTER 245 - ZONING:

ARTICLE XIV - P-1 PLANNED UNIT DEVELOPMENT:
Section 245-78 - Regulations Governing Planned Unit Developments

ARTICLE XXII - ZONING BOARD OF APPEALS:
Section 245-133 - Procedure

Adopted 2/9/17

SECTION 1. FINDINGS.

- A) Article XIV - P-1, Planning Unit Development, of Chapter 245 - Zoning, of the Village Code, provides for Planned Unit Development ("PUD") regulations to encourage flexibility in the design and development of land in order to, among other things, promote its most appropriate use. The use of PUDs in land use regulation has evolved. The Village finds that it is necessary for its regulation of PUDs to also evolve to reflect changes in land use regulations and societal changes among other reasons.
- B) Article XXII, Zoning Board of Appeals, of Chapter 245 - Zoning, of the Village Code, provides in pertinent part for the organization of and procedures for the operation of the Zoning Board of Appeals in the Village of Horseheads. Section 245-133 provides the procedures under which an aggrieved party can appeal from a determination of the Code Enforcement and for such things as use variances and area variances. Members of the Zoning Board of Appeals and Planning Board have identified information and materials which they feel, if routinely provided by the applicant, would assist the Boards in reviewing such applications and performing their duties and responsibilities. Based upon such input the Village finds that it is necessary to amend and update Section 245-133 of the Village Code.

SECTION 2. AMENDMENT.

- A) Article XIV. P-1 Planned Unit Development.
Section 245-78. Regulations Governing Planned Unit Developments - is hereby amended to add the following:
- E. Additional Requirements. In any rezoning to a PUD, amendment to an existing PUD, or approval of proposed PUD, the Village Board may impose such conditions or limitations and/or modify or waive regulations governing PUDs that the Village Board, in its legislative discretion, may determine to be necessary or desirable to ensure that the development conforms with the Comprehensive Plan of the Village and the provisions of Section 245-76, including but not limited to limiting the permitted uses, location and size of buildings, structures, and improvements, providing for open space and recreational areas, or alternatives to same, and requiring bonds or other assurances of completion of any infrastructure to be built as part of the development.
- F. Fee in Lieu of Open Space, Parks and Recreation Land. If the Village Board, by resolution or local law, has established the amounts or a formula by which

amounts payable in lieu of land reservation for open space, parks or recreational land may be determined, the amounts payable pursuant to same shall be as set forth in or determined by such resolution or local law. The amounts payable in lieu of the land reservation shall be deposited into a trust fund to be used by the Village exclusively for open space, park or other recreational purposes including, but not limited to, the acquisition of land and/or equipment and/or property, and the maintenance and improvement of new or existing open space, parks or recreation land which serve the Village's residents, taxpayers, residential neighborhoods, and others.

B) Article XXII. Zoning Board of Appeals.
Section 245-133. Procedure.

Subparagraph C is omitted in its entirety and the following is inserted in lieu thereof:

- C. Procedure for appellant. An appeal by an aggrieved person from a determination of the Code Enforcement Officer may be taken to the Zoning Board of Appeals. In addition, appeals may be taken to the Zoning Board of Appeals by any officer, department, board, commission, or bureau of the Village when within the Board's jurisdiction. Appeals to the Zoning Board of Appeals may also be made by any person seeking a variance as provided herein.
- (1) All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Zoning Board of Appeals, if any, and shall be filed with the Village Clerk or, if none, with the Code Enforcement Officer or, in the absence of both such persons, with the Confidential Secretary to the Village Manager, who shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken, together with the appeal or application.
 - (2) Every appeal or application for relief shall set forth the interpretation that is claimed or the details of the variance applied for and the grounds for which it is claimed that the variance should be granted, as the case may be.
 - (3) In requesting consideration of a variance, the appellant shall provide a survey or dimensioned drawing showing the site layout as it now is and as proposed and, if requested, a sketch drawing of the main elevation of the existing and proposed structure, indicating proposed building materials and landscaping treatment. Any significant change in the plan and elevation drawing originally submitted must be reapproved by the Zoning Board of Appeals.

The survey or dimensioned drawing shall show or provide the following:

- Title of Drawing, Address of Site
- North arrow, scale and date

- Boundaries of property - plotted to NOT MORE THAN 100' per inch
- Location and size of existing and proposed buildings and improvements
- Existing natural features, and features to be retained will be indicated
- Grading plan showing existing and proposed contours may be requested
- Location of proposed buffer areas including existing vegetative cover may be requested
- General landscaping plan and planting schedule may be requested
- Location, size, design and construction of all proposed signs and lighted facilities
- Location of any outdoor storage, i.e. sheds
- Designation of amount of building area proposed for retail sales or similar commercial activity, if applicable.

The Zoning Board of Appeals may require such other drawings/information as is necessary for the ZBA to properly consider the appeal or application. The ZBA may waive one or more items otherwise normally required to be shown or provided if it determines that the circumstances do not require the item for adequate consideration of the appeal or application.

- (4) All applications shall contain the following:
- (a) The name and home address of the applicant (appellant).
 - (b) The name and address of the owner of the lot to be affected by such proposed change, appeal or special use.
 - (c) A brief description and the location of the lot to be affected by the proposal.
 - (d) The name and present zoning classification of the district wherein the lot is located.
 - (e) Existing improvements to the property.
 - (f) The present use of the property.
- (5) Cost of advertising. Any person, firm or corporation filing an appeal shall, at the time of filing said appeal, execute a guaranty to assume all the costs of advertising. The applicant shall pay all costs, charges and expenses of advertising and readvertising in the event of adjournments or otherwise.

- (6) Notice to property owners. If a variance is requested, the appellant shall send notice of the same to all property owners within 200 feet of the boundaries of the lot or lots under consideration. Such notice shall be by mail and shall state the time and day of the public hearing, the relief sought, the type of use contemplated, the appellant's name and the location of the property in question. Such notices shall be mailed so as to arrive at least five days prior to the public hearing date. An affidavit of mailing shall be submitted as proof in each case.

SECTION 3. VIOLATION. Violation of this Local Law shall be punishable by fine or imprisonment or both as prescribed by the General Penalty Chapter of the Village Code (Local Law #12 of 1977). Each separate violation shall constitute a separate additional offense.

SECTION 4. 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 effect 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 local law.

SECTION 5. SEVERABILITY. In the event any clause, sentence, section or other part of this local law is declared to be invalid, such invalidity shall not affect the remainder of this law.

SECTION 6. EFFECTIVE DATE. This local law shall take effect as provided by law.