

**“TOWN OF MARCELLUS
SECOND AMENDED
LOCAL LAW 1-2024**

**A LOCAL LAW AMENDING CHAPTER 235-26 et al. (“ZONING”) OF THE CODE OF
THE TOWN OF MARCELLUS TO AMEND CERTAIN PROVISIONS PERTAINING
TO SIGNS**

BE IT ENACTED by the Town Board of the Town of Marcellus as follows:

Section 1. Legislative purpose and intent.

The purpose of this Local Law is to promote and protect the public health, safety and welfare of the Town by regulating existing and proposed signs located within the corporate limits of the Town. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community’s appearance and attractiveness.

This Local Law is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.

Section 2. Authority.

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

**Section 3. AMENDING CERTAIN PROVISIONS OF CHAPTER 235 OF THE
CODE OF THE TOWN OF MARCELLUS.**

The Code of the Town of Marcellus is hereby amended as follows:

So that Sections 235-8(B)(4)(d), 235-8(B)(6)(h), 235-12(A)(3)(a)(4), 235-12(A)(3)(f)(3), 235-12(B)(2), 235-13(B)(2) are hereby amended such that each reference to “§ 235-26(D)” shall be replaced with “§ 235-26.1.”

**Section 4. REPEALING SECTION 235-26(D) OF THE CODE OF TOWN OF
MARCELLUS.**

The Code of the Town of Marcellus is hereby amended to abolish the sign provisions in Chapter 235-26 as follows:

So that Chapter 235, Section 26(D), which pertains to signs, is hereby repealed in its entirety.

Section 5. ADDING SECTION 235-26.1, “SIGNS,” TO THE CODE OF THE TOWN OF MARCELLUS

§ 235.26.1(1). Definitions.

Agricultural Sign – Any sign relating to a farm.

Animated Sign – Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Billboard – Any freestanding commercial sign, in excess of the location and size permitted by this Section, located on a plot or parcel other than that where the advertised business is conducted; also known as off-site or nonaccessory billboard.

Canopy Sign – Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Flag – A usually rectangular piece of fabric of distinctive design that is used as a symbol, as a signaling device, or as a decoration.

Freestanding Sign – Any sign not affixed to a building.

Illuminated Sign – Any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light. This includes neon or LED signs.

Marquee Sign – A structure extending more than two feet from a building, with lettering thereon.

Mobile Sign – Any sign not designed or intended to be anchored to the ground and designed and intended to be capable of being transported over public roads and streets, whether or not it is so transported.

Permanent Sign – Any sign intended and installed to be permanently in place at a given location by means of suitable fastening to a building or to a structure specifically erected to hold such sign(s) or to the ground.

Projecting Sign – A sign, other than a wall sign, which is attached to and projects from, a building wall or other structure.

Roof Sign – Any sign in which all or any part extends above the wall of any building or structure, where said wall does not extend above the roofline. In no event shall a sign permitted as defined by “wall sign” extend beyond the actual wall surface.

Sign – Any structure, device, or representation of letters, symbols, or graphics used as or which is in the nature of an announcement, direction, advertisement, or other attention directing device. A flag is not a sign.

Temporary Sign – A sign, including real estate signs, which is not intended to be used permanently, but rather for a period of time, and is not attached to a building, structure, or ground in a permanent manner. Such signs are usually constructed of poster board, cardboard, engineered lumber (Masonite), plywood, or plastic material and mounted to wood, metal, wire or rope frames or supports.

Wall Sign – A sign with a face generally parallel with, and affixed to an exterior wall of a building.

§ 235.26.1(2). All signs are specifically prohibited except as follows:

Allowed locations and design specifications.

A. Design specification for all Zoning Districts.

- (1) The following design guidelines are provided to encourage and direct appropriate and compatible graphic design, materials, colors, illumination and placement of proposed signs. In general, sign design shall be consistent with the purpose and intent of this section.
 - a. Signs should be designed to be compatible with their surroundings and should be appropriate to the architectural character of the buildings on which they are located.
 - b. Sign panels and graphics should relate to architectural features or details and should be in proportion with them.
- (2) Computation of sign area.
 - a. The area of a sign shall be computed from the algebraic sum of the actual sign configuration, be it square, rectangle, circle, oval or other polygon shape. The area shall be measured from the outer dimensions of the frame, trim or molding by which the sign is enclosed, where they exist, or from the outer edge of the signboard where they do not exist.
 - b. When a sign consists of individual letters, symbols or characters, its area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols and characters.
 - c. When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to and within 12 inches of each other. Otherwise, all faces of the sign shall be used to compute the sign area.
 - d. The volume of the smallest rectangular box which encompasses the mass of the three-dimensional sign or characterization.
- (3) Lighting for any sign shall be internal or directed downward.
- (4) No sign shall be designed, lit and/or located in such a manner as to create a hazard or visibility problem or interfere with or impair vehicular traffic.

B. Residential Zones: R-1, R-2, R-3, R-4.

- (1) Freestanding signs. Freestanding signs shall be situated no closer than fifteen (15) feet from the Street Line as defined in Section 235-4(B) of this Chapter or fifty (50) feet from the center line of any street, whichever shall be the least in distance. Such signs shall consist of no more than sixteen (16) square feet in area, per side.
- (2) Wall signs. Wall signs shall consist of no more than sixteen (16) square feet in area; nor shall such signs project more than nine (9) inches from the structure upon which it is affixed. Wall signs may be affixed to or painted upon the building or windows.
- (3) Interior lot directional signage is permitted.
- (4) Absent a Special Permit, only one sign is permitted per lot.
- (5) Farming operations may apply for a special permit to exceed the number and size limitations set forth in these regulations.
- (6) Illuminated signs are prohibited in Residential Zones.

C. A-1, B-1, L-1, Highway Overlay Zones and pre-existing commercial business entities.

- (1) Freestanding signs.
 - a. Lots with a single occupant. Such sign shall be located on the premises to which it is related, providing that such sign shall be located no closer than fifteen (15) feet from the Street Line as defined in Section 235-4(B) of this Chapter or fifty (50) feet from the center line of any street, whichever shall be the least in distance. Such signs shall consist of no more than thirty-two (32) square feet in area.
 - b. Complexes with multiple occupants. Such signs shall be located on the premises to which it is related, providing that such sign shall be located no closer than fifteen (15) feet from the Street Line as defined in Section 235-4(B) of this Chapter or fifty (50) feet from the center line of any street, whichever shall be the least in distance. Such signs shall consist of no more than forty-eight (48) square feet in area, no more than eight feet in length or width, and shall be limited to sixteen (16) feet in height, as measured from the top of the sign. There shall be a minimum of three (3) feet of bottom open space along the entire length. The framework of these signs shall not be considered when calculating the size of the sign.
- (2) Wall signs. Wall signs shall not exceed one square foot per linear foot of building frontage, nor shall such signs project more than nine (9) inches from the structure upon which it is affixed. Wall signs may be affixed to or painted upon the building or windows.

- (3) Projecting signs and marquee or canopy signs. The bottom edge of a projecting and marquee or canopy sign shall be at least seven (7) feet above the ground elevation when located in an area where the public walks or where it would impair visibility. A marquee or canopy sign may extend the full length of the marquee or canopy but shall not extend beyond the ends of the marquee or canopy.
 - (4) Interior lot direction signage is permitted.
 - (5) Residences located within an A-1 District that are not part of a farming operation, are limited to one sign per residence, sixteen (16) square feet in size.
- D. In areas where variances have been granted by the Zoning Board of Appeals, under the conditions set forth in § 235-27(B)(3)(a) and § 235-27(B)(3)(b). Subdivision identification signs shall be included under this category, subject to such standard as may be established by the Town Planning Board.

§ 235.26.1(3). Procedures for Obtaining Sign Permit.

- A. Permit required. It shall be unlawful for any person to erect, structurally alter, or relocate an existing sign within the corporate limits of the Town without first having obtained and paid for and having in force a permit from the Code Enforcement Officer.
- B. The following two operations shall not be considered creating a new sign and, therefore, shall not require a sign permit:
 - (1) Replacing copy: the changing of the advertising or message on an approved sign which is specifically designed for the use of a replaceable copy.
 - (2) Maintenance: painting, cleaning and other normal maintenance and repair of a sign or a sign structure, unless a structural change is made.
- C. Application for a sign permit shall be made on a form provided by the Code Enforcement Officer, which application shall include:
 - (1) The name, address, telephone number of the applicant.
 - (2) The name, address, telephone number and insurance coverage of the sign maker.
 - (3) The location upon which the sign is to be erected.
 - (4) A color photo of the location upon which the sign is to be erected.
 - (5) Size of the sign.
 - (6) A description of the construction details of the sign, showing the lettering and/or pictorial matter composing the sign and a description of the position of lighting or other extraneous devices.

- (7) Sketches drawn to scale and supporting information indicating location of sign colors, size and types of lettering or other graphic representation, logos and materials to be used, electrical or other mechanical equipment, details of its attachment and hanging.
 - (8) In addition, such sign application shall be accompanied by the requisite fee.
 - (9) Such other pertinent information as the Code Enforcement Officer may require to ensure compliance with this section.
- D. Following formal submission to the Code Enforcement Officer, said Code Enforcement Officer shall render a determination within thirty (30) business days.
 - E. Appeal from permit denial. Any applicant, feeling aggrieved by the decision of Code Enforcement Officer upon any application for a permit for any sign, may appeal to the Zoning Board of Appeals from such decision, and the Zoning Board of Appeals may affirm, reverse or modify such decision of the Code Enforcement Officer.
 - F. Issuance of sign construction permit. Upon approval of the application by the Code Enforcement Officer, or after a review and approval by the Zoning Board of Appeals, the Code Enforcement Officer shall issue a permit for construction of such sign.

§ 235.26.1(4). Signs allowed without a permit.

- A. Temporary signs provided such signs shall not be placed for more than three (3) consecutive months. Temporary signs are subject to the same location, and design specifications as permanent signs as set forth in Section 235.26.1(2) of these regulations. If such signs remain in place longer than three (3) months within a twelve (12) month period, with the exception of real estate signs, a permit is required to be obtained pursuant to § 235.26.1(3).
 - (1) Corrugated plastic yard signs with wire stands, or signs similar in nature, 24" x 18" or smaller, shall be exempt from location restrictions in Section 235.26.1(2) B and D, but shall not be located in such a manner as to create a hazard or visibility problem or interfere with or impair vehicular traffic.
- B. Signs required by county, state or federal law.
 - (1) Posted signs shall be exempt from time and location restrictions in Section 235.26.1 (2) B and D when necessary to comply with N.Y. State Environmental Conservation Law, Article 11, Title 21, Section 11-2111, but shall not be located in such a manner as to create a hazard or visibility problem or interfere with or impair vehicular traffic.

§ 235.26.1(5). Existing signs.

Notwithstanding any other provision of this section, any sign in existence at the date of adoption of this section which does not conform to the provisions of this section shall be

“grandfathered” in, such that said signs may remain in their present condition, but if any major change, modification, structural repair or replacement thereof is hereafter made, such sign shall thereafter conform to the provisions of this section.

§ 235.26.1(6). Prohibited signs.

The following signs shall be prohibited in all zoning districts, as established pursuant to Chapter 235, Zoning, of the Town Code, except as otherwise permitted by this section:

- A. Animated signs, including those with rotating or moving parts or messages.
- B. Mobile signs.
- C. Roof signs.
- D. Any sign which could be mistaken for or confused with a traffic control sign, signal or device.
- E. Signs permanently painted, posted or otherwise attached to any rock, fence, or utility pole.
- F. Billboards.
- G. All signs not expressly permitted by this section.

§ 235.26.1(7). Sign maintenance.

- A. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including illumination sources, in a neat and orderly condition and good working order at all times and to prevent the development of rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign.
- B. Unsafe signs or unsightly, damaged or deteriorated signs or signs in danger of falling shall be put in order or removed upon written notice. Immediate compliance is expected for the repair or removal of unsafe signs. If compliance is not achieved within the time period specified in such notice, the sign shall be repaired or removed by the Town and the costs assessed to the property owner pursuant to this section.
- C. Unsafe temporary signs or unsightly, damaged, or deteriorated signs or signs in danger of falling shall be put in order or removed upon written notice. Immediate compliance is expected for the repair or removal of unsafe temporary signs.

§ 235.26.1(8). Enforcement and remedies.

- A. Enforcement official. The provisions of this section shall be administered and enforced by the Code Enforcement Officer who shall have the power to make necessary inspections.
- B. Penalties for offenses.

- (1) In the event of a breach of any of the provisions of this section, the Code Enforcement Officer shall notify the owner of the premises, in writing, to remove, repair, or bring the sign into conformance, within thirty (30) days of the date of such notice.
- (2) Any person, firm, or corporation, whether as owner, lessee, agent, or employee, who violates any of the provisions of this section or who fails to comply with any order or regulation made thereunder, or who erects, moves, or alters any sign in violation of any detailed statement or plans submitted by him/her and approved under the provisions of this section, shall be guilty of a violation of this law and shall be fined not more than \$100 for each violation.
- (3) Each day that such violation is permitted to exist shall constitute a separate violation.
- (4) If any sign is erected, altered, or moved in violation of the provisions of this section, proper officials may, in addition to other remedies, institute an appropriate action to prevent such unlawful operation.
- (5) Upon failure to comply with any notice within the prescribed time, the Code Enforcement Officer shall remove or cause removal, repair, or conformance of a sign, and shall assess all costs and expenses incurred against the owner of the building or land on which the sign is located.
- (6) All costs and expenses incurred by the Town in causing the removal or repair of any sign, as specified in this section shall be assessed against said owner and shall be paid and collected as part of the Town tax next due and payable. In addition, the Town may commence any other action or proceeding to collect such costs and expenses.

Section 6. Severability.

If any clause, sentence, paragraph, word, section or part of this section shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved or in the controversy in which said judgment shall have been rendered.

Section 7. Effective Date.

This Local Law shall be effective upon filing with the Office of the Secretary of State.”

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

VOTE:	Laurie Stevens	Town Supervisor	Yes
	Jeff Berwald	Councilor	Yes
	Percy Clarke	Councilor	Yes
	Terry Hoey	Councilor	Yes

The foregoing resolution was thereupon declared duly adopted.

DATED: June 26, 2024