

**LOCAL LAW #5 OF 2006**  
**A LOCAL LAW REGULATING OUTDOOR WOOD-BURNING FURNACES WITHIN THE**  
**VILLAGE OF HORSEHEADS**  
**ADOPTED 12/14/06**

Section 1. Title.

This Local Law shall be entitled "A Local Law Regulating Outdoor Wood-Burning Furnaces within the Village of Horseheads.

Section 2. Authority.

This Local Law is enacted pursuant to the authority of Articles 2 and 3 of Municipal Home Rule Law of the State of New York, and Village Law Section 4-412.

Section 3. Findings.

The Village Board has determined that Outdoor Wood-Burning Furnaces, due to the types of fuel used, and the scale and duration of the burning by such furnaces, create noxious and hazardous smoke, soot, fumes, odors and air pollution, and that such emissions can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. The Village Board also takes notice of the fact that residences in the Village, being in close proximity to each other, require that some conduct, acceptable in the less densely occupied areas, cannot be permitted within the confines of the Village, and may be a nuisance to neighbors.

Section 4. Purpose.

In order to protect the health, safety and welfare of the citizens and residents of the Village of Horseheads, and to prevent the deleterious effects associated with the unregulated operation of existing Outdoor Wood-Burning Furnaces and to forestall an increase in such effects, the Village Board of Trustees has determined that it is necessary and appropriate to enact this Local Law imposing restrictions upon the installation and operation of Outdoor Wood-Burning Furnaces within the limits of the Village.

Section 5. Definitions.

For the purpose of this law, certain words and terms shall have the following meanings. Unless defined below, words and phrases used in this law shall be interpreted so as to give them the meaning they have in common usage and to give this law its most reasonable application:

- 1) "Opacity" shall mean the degree of obscuration of light (for example, a window has zero opacity; a wall is 100 percent opaque)
- 2) An "Outdoor Wood-Burning Furnace" or "Furnace" shall mean any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors, any accessory structure, whether attached to or detached from a principal

structure, designed and intended to provide large quantities of heated water, heated air or heat in general, through the burning of wood or combustion of fuel, for the primary purpose of heating the principal structure, and/or any other structure located on the same premises or lot, or as a component of a heating system providing heat or hot water for any interior space.

- 3) "EPA Method 9" shall mean the method approved by the United States Environmental Protection Agency for determining the opacity of air emissions.
- 4) "Existing" or "In Existence" when used with Outdoor Wood-Burning Furnace or Furnace means that the Furnace is already in place on the site at the time when this law shall take effect.

#### Section 6. Outdoor Wood-Burning Furnaces Prohibited.

The construction, installation or operation of Outdoor Wood-Burning Furnaces, whether as a new or a replacement installation, is hereby prohibited within the Village of Horseheads.

#### Section 7. Exemption for Pre-Existing Outdoor Wood-Burning Furnaces

Any Outdoor Wood-Burning Furnace existing within the Village prior to the effective date of this law may continue to be operated only if it is in full compliance with any applicable state and/or federal regulations, is operated in full compliance with the manufacturer's recommendations and specifications, and with each and every one of the following restrictions:

- 1) The Furnace shall be operated only between September 1<sup>st</sup> and May 31<sup>st</sup>.
- 2) The Furnace shall be equipped with properly functioning spark arrestors equal to or exceeding those specified by its manufacturer.
- 3) The Furnace shall not emit emissions having a greater than 20% opacity (based on EPA Method 9 as determined by a person certified in its use) during any six minute average period of time.
- 4) No malodorous air contaminants from the Furnace shall be detectable beyond the boundary of the property on which it is located.
- 5) The Furnace emissions shall not interfere with the reasonable enjoyment of life or property of the residents of the Village.
- 6) The Furnace emissions shall not cause damage to vegetation or property.
- 7) The Furnace emissions shall not be harmful to human or animal health.
- 8) The extension, enlargement or replacement of any such Furnace is strictly prohibited.
- 9) Any Furnace which is abandoned or discontinued for a period of 12 months or more

shall not be permitted to be reestablished as a non-conforming use and shall be immediately removed from by the property owner of the subject premises. If the property owner fails to so remove the Furnace, the Code Enforcement Officer shall give written notice by certified mail or personal service to the property owner upon which the Furnace is located. Such notice shall provide that such person shall remove the same within 30 days of the notice. Should the Furnace not be removed in the time specified, the Code Enforcement Officer may arrange for its removal. The cost of which, if not paid, shall be charged to the property so effected by including such expense in the next annual tax levy against the property.

#### Section 8. Penalties.

Violation of this law shall be punishable by fine or imprisonment or both as prescribed by Chapter 1, Article II, General Penalty of the Village Code. Each separate violation shall constitute a separate additional offense.

#### Section 9. Civil Proceedings for Enforcement of this Local Law.

Compliance with this law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this law shall also be subject to a civil penalty of not more than the maximum amount which could be collected pursuant to Section 8 of this Local Law, to be recovered by the Village in a civil action and each week's continued violation shall, for the purpose of this Local Law, be a separate and distinct violation. In the event the Village is required to take legal action to enforce this law, the violator shall be responsible for any and all necessary costs relative thereto, including attorney's fees. Such costs to be in addition to the civil penalty amount imposed hereunder. All such amounts awarded under this Section may, if they remain uncollected, be charged to the property so affected by including such expense in the next annual tax-levy against the property.

#### Section 10. Authority to Enforce this Local Law.

The Code Enforcement Officer or any Police Officer of the State of New York or its subordinate jurisdictions are hereby authorized in the name and on behalf of the Village to undertake and prosecute any proceedings necessary to appropriate to enforce compliance with this law.

#### Section 11. Severability.

The provisions of this law are severable and the invalidity of a particular provision shall not invalidate any other provision.

#### Section 12. Effective Date.

This law shall be effective upon filing with the Secretary of State.

/rmb