

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Head-of-the-Harbor will hold a public hearing on the 18th day of August, 2010, at 7:00 P.M., at the Village Hall, 500 North Country Road, Head-of-the-Harbor, New York, to consider the adoption of a local law as follows:

**LOCAL LAW NO. (Intro.)#3 OF 2010
A LOCAL LAW REGULATING OPEN BURNING**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HEAD-OF-THE-HARBOR AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to regulate open burning which is outdoor fires or any outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open burning can cause serious environmental and health effects. As stated in November 2000 by the U.S. Environmental Protection Agency in "Agricultural Burning":

Burning creates a concentrated plume of smoke that can travel many miles. Although burning is usually conducted for short periods of time, the lingering cloud can affect air quality in communities both in the immediate area of the burn and those miles away.

* * *

Scientific studies - along with thousands of complaints - indicate that smoke is unhealthy. It is harmful because very fine particles, gases and other products of burning (some toxic) can be inhaled deeply into the lungs. Exposure to fine particles, either alone or combined with other air pollutants, has been linked to difficulty in breathing, aggravated asthma, increased emergency room visits and hospital admissions, and, in some cases, premature deaths. Those most at risk are children, the elderly and people with chronic respiratory problems.

Besides these health effects, dense smoke can impair local visibility and may create a public nuisance and dangerous driving conditions.

In view of the adverse effects incident to open burning, this local law is intended to limit this activity to those circumstances least hazardous and without any alternative.

SECTION 2. DEFINITIONS.

As used herein, the following terms shall have the indicated meanings:

(a) Agriculture shall mean the science, art and business of cultivating the soil, producing crops (including field crops, fruits, vegetables and horticultural specialties) which are primarily intended to be sold.

(b) Open burning shall mean any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open burning does not include burning in outdoor wood-fired boilers that are used

to heat buildings which is prohibited under Village Code § 165-34.1.

(c) Management-ignited prescribed fire, prescribed fire or prescribed burn shall mean the intentional setting of land on fire under carefully controlled conditions to achieve a vegetative or wildlife management goal adhering to a written and approved prescribed fire plan.

(d) Prescribed burn plan or prescribed burn management plan or fire plan shall mean a written design for the use of fire to accomplish management goals.

SECTION 3. REGULATIONS.

(a) Permit Required. Excepting as otherwise permitted under this local law, open burning is prohibited in the Village of Head-of-the-Harbor.

(b) Permit Process. Any application for a permit shall be submitted to the Board of Trustees at least ninety (90) days prior to any proposed burning on an application form available from the Village Clerk, accompanied by an application fee of Five Hundred (\$500.00) Dollars. Any such application shall upon submission of a complete application be scheduled for a public hearing within forty-five (45) days.

(c) Permit Standards. Issuance of any permit hereunder shall be subject to the following:

(i) Absence of Any Alternative. Applicant shall demonstrate by competent evidence that there is no alternative available except to conduct open burning.

(ii) Minimum Setback. Any open burning shall be distant at least 1,000 feet from any residence, school, place of public assembly (indoors or outdoors) including by way of illustration, not limitation, a park, any area within a park, bathing beach, playground, recreational facility or the like.

(iii) Emergency Personnel. Any public hearing shall include the participation of an authorized representative of any fire department, police department and ambulance squad servicing the site of the application and any municipal fire marshal for any adjacent municipality if that municipality is within 1,000 feet of the site. Applicant shall bear the burden of obtaining the participation of such third parties.

(iv) Prohibited Materials. No open burning at any site shall include debris piles or other material producing excessive smoke or other special risks including by way of illustration, not limitation, yard waste, garbage, construction debris, rubber, plastic, wire insulation, tires, wet grass, leaves, commercial waste, chemically treated wood (including coated, stained, sealed, glued or otherwise adulterated wood),

pesticide containers, fertilizer or fertilizer bags, synthetic materials or fuel of any kind.

(v) Manager. Applicant shall identify a manager of the proposed open burning including a verifiable listing of qualifications, expert credentials, communication contacts and the manager's personal knowledge of local weather conditions, the nearby area and emergency resources.

(vi) Fire Plan. Any application shall include a prescribed fire plan, including by way of illustration, not limitation, a map at an appropriate scale, a description of all identifiable risks, a list of all neighbors (names and addresses) within 1,500 feet of the site, the objective(s) of the open burning, any reasonable alternative, an accurate description of the vegetative cover and fuel loads at the site, expected and allowable and prohibited weather conditions including by way of illustration, not limitation, wind speed, wind direction, air temperature, humidity and the like, a listing of any public or private event with an expected attendance of 25 or more persons scheduled at the same time within 1,500 feet of the site and/or using public roads within 3,000 feet of the site for vehicle parking, duration of the burn, anticipated flame length and rate of spread, personnel on hand including respective duties and qualifications, fire

management equipment on site, plan for containment of any fire to the site, a copy of any permit under 6 NYCRR Part 194 or 215, anticipated volume, content, direction and duration of smoke and available on-site water source including details of available volume.

(vii) Notification. Applicant shall at least 21 days prior to any public hearing notify by certified mail, return receipt requested, each property owner within a 1,500 foot radius of the site, and proof of said notification shall be submitted to the Village Clerk prior to any such hearing.

(viii) Payment of Municipal Costs. In the event the Board of Trustees in the exercise of its discretion deems it necessary to engage an expert on fire management applicant shall pay any reasonable fee for said expert, the application shall include a signed acknowledgement of this obligation and, upon request of the Village Clerk in the event such an engagement resolution is adopted by the Board of Trustees, any fees shall be paid by applicant within 72 hours and shall be a condition of any public hearing being conducted or continued or a permit issued.

SECTION 4. EXCEPTIONS.

This local law shall not apply to burning incident to:

Recreational bonfires, barbecue grills, portable cooking appliances, ceramic or clay fire pits, small fires used to dispose of flags or religious items or incident to a religious activity, emergency disposition of dangerous or contraband material by law enforcement, agricultural smudge pots, authorized fire training, recreational cooking, camp fires and agricultural waste disposition provided same is on a site used for agriculture with an area greater than five (5) acres.

SECTION 6. ENFORCEMENT.

The Building Inspector, any Village Code Enforcement Officer and any member of the Village Police Department is hereby vested with authority to enforce the provisions of this chapter.

SECTION 7. PENALTY.

Any person, firm, association, corporation or other entity violating any provision of this chapter is subject to a penalty in a sum not exceeding \$1,000.00.

SECTION 8. SUPERSESSION.

This local law shall supersede any inconsistent law, state or local, including by way of illustration, not limitation, 6 NYCRR Part 215 and Part 194. This declaration of supersession is made by authority of the Village's municipal home rule law powers, pursuant to §§10 (1) (ii) (a) (14) and

10(1)(ii)(e)(3) of the Municipal Home Rule Law, § 10(6) of the Statute of Local Governments, and Article 9, § 2(b)(3) of the New York State Constitution.

SECTION 9. SEVERABILITY.

Should any part or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 10. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State as provided by law.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: June 21, 2010

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF HEAD-OF-THE-HARBOR

BY: Margaret O'Keefe, Village Clerk