

Local Law #1 of the Laws of 2012
OPEN BURNING in the VILLAGE of HOOSICK FALLS

SCHEDULE A

Section 1. Purpose.

The purpose of this Local Law shall be to protect and promote the health, safety and welfare of the people of the Village of Hoosick Falls by prohibiting the burning of garbage, rubbish and refuse and regulating open burning and recreational fires.

Section 2. Definitions.

For the purposes of this Local Law, the following words, phrases and terms and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular, words used in the singular include the plural, and words used in the masculine include the feminine. The word “shall” is always mandatory and not merely directory.

A. An *open fire* is any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. *Open fires* include burning in barrels or modified barrels. *Open fires* do not include burning in outdoor furnaces or boilers that are used to heat buildings when the devices are actually used for such purpose.

B. *Agricultural land* is any land and on-farm buildings, equipment, manure processing and handling facilities, and practices that contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a ‘commercial horse boarding operation’ and ‘timber processing’. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

C. A *camp fire* or any other outdoor open fire less than three (3’) feet in height, and less than four (4’) feet in length and width or diameter.

D. *Agricultural waste* is any waste from naturally grown products such as vines, trees and branches from orchards, leaves and stubble. In addition, any fully organic waste either grown or generated on the premises, including but not limited to paper feed bags, wood shavings used for livestock bedding, bailing twine, and other non-

plastic materials. *Agricultural waste* does not include pesticide containers, fertilizer bags, large plastic storage bags (including bags commonly known as “Ag bags”), offal, tires, plastic feed bags, and other plastic or synthetic materials.

E. An *acquired structure* is a structure donated or loaned from a property owner for the purpose of conducting fire training.

F. *Untreated wood* is any wood or lumber which is not chemically treated, coated, stained, sealed, glued or otherwise adulterated. *Untreated wood* does not include such materials as pressure treated lumber, plywood, particle board, fiberboard, and oriented strand board.

G. *On-site burning* is the burning of material, grown or generated on a particular property, in an open fire on the same property. For purposes of this definition, the same property shall include only property that is geographically contiguous and under the control or ownership of the same person.

H. *Rubbish* is any solid or liquid waste materials, including but not limited to, paper and paper products, rags, furniture, cans, plastics, cartons, chemicals, paint, grease, sludges, oils, any petroleum products other than legitimate home heating and cooking products, construction materials including but not limited to lumber sheet rock, chip board, concrete, asphalt or fiberglass shingles, or pressure treated lumber, automobile parts, tires, dead animals, metal goods including but not limited to refrigerators, stoves and like appliances, paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, glass, bedding crockery, offal and similar materials.

I. *Code Enforcement Officer* of the Village of Hoosick Falls or such other person appointed by the Village Board to enforce the provision of law or code of the Village of Hoosick Falls, including this law.

Section 3. Prohibitions.

Except as allowed by Section 4 of this Local Law, no person shall burn, cause, suffer, allow, or permit the burning of any materials, including but not limited to, garbage, refuse, rubbish, downed limbs and branches, in any burn barrels, open pits, outdoor or indoor fireplaces, incinerators, woodstoves, or in any other mechanism for burning garbage or rubbish.

Section 4. Exceptions and Restricted Burning.

Burning in an open fire, provided it is not contrary to other law or regulation, will be allowed as follows:

A. Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.

B. Small fires used for cooking and camp fires provided that only charcoal or untreated wood is used as fuel and the fire is not left unattended until extinguished.

C. On-site burning of agricultural wastes as part of a valid agricultural operation on contiguous agricultural lands larger than five (5) acres actively devoted to agricultural or horticultural use, provided such waste is actually grown or generated on those lands and such waste is capable of being fully burned within a 24-hour period.

D. The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.

E. Ceremonial or celebratory bonfires where not otherwise prohibited by law, provided that only untreated wood or other agricultural products are used as fuel and the fire is not left unattended until extinguished.

F. Small fires that are used to dispose of a flag or religious item, and small fires or other smoke producing process where not otherwise prohibited by law that are used in connection with a religious ceremony.

G. Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.

H. Prescribed burns performed according to the Department of Environmental Conservation Regulations, Chapter II – Lands and Forests, Part 194 – Forest Practices.

I. Fire training, including firefighting, fire rescue, and fire/arson investigation training, performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. For fire training performed on acquired structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke (such as asbestos, asphalt

shingles, vinyl siding or any other vinyl products) prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a 300 foot radius (whichever is bigger) may be burned in a training exercise.

J. Individual open fires as approved by the Director of the Division of Air Resources of the Department of Environmental Conservation as may be required in response to an outbreak of a plant or animal disease upon request by the Commissioner of the Department of Agriculture and Markets, or for the destruction of invasive plant and insect species.

K. Individual open fires that are otherwise authorized under the Environmental Conservation Law, or by rule or regulation of the Department of Environmental Conservation.

Section 5. Procedure.

Upon observing or receiving a complaint with respect to a violation of this law, the Code Enforcement Officer shall respond to the source of the complaint. If the Code Enforcement Officer finds probable cause to believe there has been a violation of this law, he or she shall issue a citation to the offending person or persons ordering the person or persons to respond to the charge in the Justice Court for the Village of Hoosick Falls not ore than thirty (30) days after the issuance of the citation. The original citation shall be filed with the Justice Court for the Village of Hoosick Falls.

Section 6. Penalties for Offenses.

A. A first violation of this Local Law is punishable by a fine not exceeding Two Hundred Fifty (\$250.00) Dollars or imprisonment for a period not to exceed fifteen (15) days, or both. For the purpose of conferring jurisdiction upon Courts and Judicial Officers generally, violations of this Local Law shall be deemed misdemeanors, and for such purpose, all provisions of law relating to misdemeanors shall apply to such violation. In addition thereto, the Village of Hoosick Falls authorities shall have such other remedies as are provided by law to restrain, correct or abate any violation of this Local Law.

B. For a second offense within five (5) years of the first offense, there shall be a fine of not less than Three Hundred Fifty (\$350.00) Dollars and not more than Seven Hundred (\$700.00) Dollars or not exceeding six (6) months imprisonment, or both.

C. For a third or subsequent offense within a five (5) year period, there shall be a fine of not less than Seven Hundred (\$700.00) Dollars and not more than One Thousand (\$1,000.00) Dollars or not exceeding six (6) months imprisonment, or both.

Section 7. Rules and Regulations.

The Board of Trustees or the Board of Trustees' designee may promulgate rules and regulations to carry out and give full effect to the provisions of this Local Law.

Section 8. Severability.

If any provision of this Local Law or the application thereof to any person or circumstance is held invalid, the remainder of this Local Law and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

Section 9. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.