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June 4, 2007

**PUBLIC HEARING
LOCAL LAW #5 FOR
2007**

Upon due notice to all members of the Village Board, a Public Hearing was held on Monday, June 4, 2007 at 7:20 p.m. at the Municipal Building, 240 N. Main Street, Minoa, NY. The purpose is to consider the enactment of Local Law #5 for 2007 relating to the amendment of Chapter 113, entitled "Penalties", Section 113-1, and **Penalties for Violations** of the Village of Minoa Municipal Code.

PRESENT: Mayor Donovan
Trustee Cronk
Trustee Brazill
Trustee Champagne
Attorney Primo
Clerk Snider

ABSENT: Trustee Theobald

**PROOF OF
PUBLICATION**

Mayor Donovan called the Public Hearing to order at 7:25 p.m. for Local Law #5 for 2007 amending, supplementing and repealing parts of Chapter 113 of the Village of Minoa Municipal Code

A motion was made by Trustee Brazil and seconded by Trustee Champagne agreeing to waive the reading of the Proof of Publication of Public Hearing. All in favor. Motion carried.

**PUBLIC HEARING
LOCAL LAW #5 FOR
2007**

Local Law #5 for 2007 is as follows:
Village of Minoa

Local Law No. Five (5) of the year 2007.

A local law amending Chapter 113 of the Village of Minoa Municipal Code.

Be it enacted by the Board of Trustees of the Village of Minoa as follows:

Section 1. Section 113-1 of the Code of the Village of Minoa shall be deleted in its entirety and replaced with the following language:

- A) In addition to the fines, remedies and penalties set forth below, or otherwise in the Code of the Village of Minoa, and notwithstanding any provision of Section 1-17 of the Village Code or this Chapter 113 to the contrary or otherwise the penalty for any infraction of any chapter of this Code which specifies that such an infraction shall be a violation (but which does not specify a penalty) shall be a fine of not less than \$25 and not more than \$250 or imprisonment of not more than 15 days, or both.
- B) In addition to the fines, remedies and penalties set forth below, or otherwise in the Code of the Village of Minoa, and notwithstanding any provisions of Section 1-17 of the Village Code or this Chapter 113 to the contrary or otherwise for any violation of the following relating to the condition use, occupancy and/or possession of real property or improvements thereon, under Chapters: 51 to the extent not otherwise specifically provided therein; 63, 75; 124; 127; 132; 136; 140; 151; 155 and 160 et seq. of the Village Code or under the New York State Property Maintenance Code (NYCRR §1226.1) where:
- 1) the owner, occupant or other person having the possession or control of any such lot or land shall have been previously personally served with a notice to comply with the provisions hereof, or if no such person can be found, by a posting of such notice on the premises and mailing a copy of the notice to the premises or the owner thereof as shown on the current tax roll for Village Taxes; and
 - 2) such owner, occupant or other person having the possession or control of any such lot or land shall have failed, neglected, or refused to comply with the provisions hereof within five days after the notice was sent or served; and
 - 3) the Village shall have expended moneys to cure such violation(s) where a danger to the public health and safety existed as a result of such violation, the Village may assess the cost of curing such violation, plus a service charge of 30% thereof to cover the cost of supervision and administration, against the property, to be levied, enforced and collected in the same manner as Village taxes, by the same proceedings, at the same time, with the same penalties and having the same effect as a lien upon the property as general Village taxes.
- C) The foregoing provisions of §113-1(B) shall not apply wherever a separate procedure for notice, opportunity to cure and lien assessment on the property is provided for in the specific Chapter of the Village Code described at §113-1(B).

Section 2. ILLEGALITY/SEVERABILITY.

If any part of this local law or the application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation or the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to the other persons or circumstances. Further, in adjudging such invalid provision, the court shall attempt to modify same to a provision which is not invalid and which best achieves the intent of the invalid provision.

Attorney Primo said that Local Law #5 applies to real property issues within the Code and will allow enforcement with penalties against property maintenance violations. Enforced corrections can be treated as a lien on the property as a tax levy if the owner of the property has been notified of the problem and it was not corrected or if a danger to public health and safety exists. The law states that if the problems exist and the Village needs to cure the problem, a financial liability exists for the property owner.

Attorney Primo said that Richard Greene had requested that Chapter 136 be amended to allow for the grass cutting of the side and back yards, as the current law only applies to front yards. Attorney Primo said that was something the Village could do, but would need a different local law. He said that Mr. Greene requested that local laws be created to amend different sections of the code referring back to the penalties section, but Attorney Primo felt that it would not be financially sound to create that many laws and was not in the Village budget.

Attorney Primo said the Board should take action on the current law and stated that the notice should be given to the property owner by certified letter with a given time to correct the problem. Mayor Donovan said the time given should not be excessive and Trustee Cronk agreed.

Attorney Primo said that he could modify it similar to the notification provision as to how it relates to weeds and grass and would forward the updated local law to Clerk Snider for processing.

PUBLIC COMMENTS Mayor Donovan stated let the record show that there was no one in attendance for the Public Hearing.

PUBLIC HEARING
CLOSED

A motion was made by Trustee Brazill and seconded by Trustee Cronk to adjourn the Public Hearing for Local Law #5 for 2007 at 7:31 p.m. All in favor. Motion carried.

Respectfully submitted,

Suzanne M. Snider
Village Clerk