

**ORDINANCE NO. 457**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA, AMENDING CHAPTER 58, ZONING, OF THE TOWN'S CODE OF ORDINANCES, BY AMENDING ARTICLE IX, SUPPLEMENTAL DISTRICT REGULATIONS, DIVISION 1, GENERALLY, TO CREATE A NEW SECTION 58-336, GENERATORS, TO PROVIDE REGULATIONS REGARDING THE NUMBER, PLACEMENT, SIZE AND TESTING OF PORTABLE AND PERMANENT GENERATORS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Haverhill, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, Article IX deals with Supplemental District Regulations, and given the potential for hurricanes and the loss of power associated therewith, as well as the increasing demand for residential property to have backup power available to it, the Town is desirous of implementing requirements for portable and permanent generators; and

**WHEREAS**, the Town Council hereby creates a new section 58-336 to establish what those new regulations will be; and

**WHEREAS**, the Town Council has considered the evidence and testimony presented by the Town Staff and other interested parties; and

**WHEREAS**, the Town Council, after duly noticed public hearings has determined that the adoption of these regulations would further the public's health, safety and general welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVERHILL, FLORIDA:**

**Section 1. Recitals.** The "WHEREAS" clauses are incorporated herein as true and correct and as the legislative findings of the Town Council.

**Section 2. Amendment.** Chapter 58, Zoning, Article IX, Supplemental District Regulations, Division 1, is hereby amended to create a new Section 58-336, entitled "Generators" as follows:

**See Exhibit "A" attached hereto and made a part hereof**

**Section 3. Codification.** The Mayor and Town Administrator are hereby authorized and directed to do all things necessary to effectuate this amendment; and authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Haverhill. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the Town of Haverhill, Florida* and the Sections of this Ordinance may be

renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 3, 4, 5 and 6 of this Ordinance shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**Section 4. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 5. Repeal of laws in conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6. Modification.** Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word.

**Section 7. Effective Date.** This Ordinance shall take effect immediately upon adoption.

**FIRST READING** this 12th day of July, 2018.

**THE SECOND AND FINAL READING** was held this 26th day of July, 2018. Council member Sohn offered the foregoing Ordinance, and moved its adoption. The Motion was seconded by Council member Harvin, and upon being put to a vote, the vote was as follows:

JAY G. FOY, Mayor  
LAWRENCE GORDON, Vice Mayor  
MARK C. UPTGRAPH, Council Member  
REMAR HARVIN, Council Member  
DANIEL H. SOHN, Council Member

Aye  
J Aye  
Aye  
J Aye  
Aye

The Mayor thereupon declared this Ordinance approved and duly adopted by the Town Council of the Town of Haverhill, Florida.

Attest:

**TOWN OF HAVERHILL, FLORIDA**

Janice C. Rutan, Town Admin.

Jay G. Foy, Mayor

## TOWN OF HAVERHILL

### Exhibit "A" – Ordinance 457

#### Sec. 58-336. - Generators.

Except for generators serving a public purpose and owned and operated by the town or temporary generators used during or after a natural disaster such as a tropical storm or hurricane event, and which are therefore exempt from these regulations, portable or permanent generators temporarily or permanently placed on the ground, on a stand or on a trailer, shall not be placed in the required front, street side or street rear yard setbacks; provided, however, not more than one such generator shall be placed in any given required side or rear yard setback as set forth below.

- (1) One portable or permanent generator with an output of not more than 30 KW shall be allowed in a required side or rear yard setback provided said generator meets the following conditions:
  - a. Generators shall meet the zoning district setback requirements for principal structures, except that any encroachment of five (5) feet or less is permitted. The generator must be set back a minimum of five (5) feet from the property line.
  - b. The generator shall not, at any time, or for any purpose, exceed 55 dBA at the property line from 7:00 p.m. to 8:00 a.m.
  - c. The highest point on the generator shall not exceed a maximum of five (5) feet above the neighboring property owner's finished grade.
  - d. Generators that are not located within, or completely screened by a building, shall be screened from view from a public right-of-way or adjacent residential property line. Screening may include the use of fences, walls or hedges, or a combination thereof.
  - e. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.
  - f. The generator shall be used only during periods of power outages or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company or for use by power customers during periods of peak demand.
  - g. The generator shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Saturday only (excluding holidays), between the hours of 10:00 a.m. and 5:00 p.m.
  - h. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.
  - i. Generators are not permitted on the roof of a building.
- (2) A portable or permanent generator may be permanently or temporarily placed on the ground, on a stand, or on a trailer outside of required yard setback areas; provided, however, said generator meets the following conditions:

- a. If the generator's output capability is greater than 30KW, it shall be placed on the property only in conformance with the setback requirements applicable to a principal structure.
- b. The generator shall not, at any time or for any purpose, exceed 55 dBA at the property line from 7:00 p.m. to 8:00 a.m..
- c. The generator's exhaust is, as much as practically feasible, vented upwards or directed away from neighboring properties.
- d. The generator shall be used only during periods of power outages, periods of power reductions resulting from the exercise of utility load control programs or for periodic testing and necessary maintenance operation and shall not be used to sell power back to a power company.
- e. The generator shall be operated for routine testing and maintenance purposes not more than one time in any seven-day period and no test shall exceed 30 minutes. Testing of emergency generators is permitted Monday through Saturday only (excluding holidays), between the hours of 10:00 a.m. and 5:00 p.m.
- f. Testing may be conducted when the unit is being repaired, provided that such testing period shall not exceed 30 minutes and shall be conducted only between the hours of 10:00 a.m. and 5:00 p.m. Monday through Saturday, excluding holidays.
- g. Generators are not permitted on the roof of a building.