

TOWN OF JAY
LOCAL LAW #2 FOR 2007

Local Law #2 – 2007

A Local Law (a) regulating the use of outdoor furnaces and (b) prohibiting burning barrels or other similar contrivances for the open burning of garbage, refuse, rubbish or other materials within the Town of Jay

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF JAY, ESSEX COUNTY, NEW YORK, AS FOLLOWS:

SECTION I: - PURPOSE:

Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impact of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. Similarly, open burning of garbage, refuse, rubbish, and other materials can also pose a threat to life and property in the Town of Jay if not properly prohibited. In each instance such burning can cause air pollution which can have detrimental effects upon a citizen's health and can spread and cause damage and possible loss of life to other properties and their owners. It is the purpose of this Local Law to provide for the safety, health, protection and general welfare of persons and property in the Town of Jay by ensuring that outdoor furnaces are utilized in a manner that do not create a nuisance and are not detrimental to the health, safety and general welfare of the residents of the Town and by prohibiting the open burning of garbage, refuse, rubbish and other combustible materials by means of burning barrels or other similar contrivances.

The Town Board hereby declares that a clean, wholesome and healthy environment is of vital importance to the continued general welfare of the citizens of the Town of Jay and acknowledges the hazards and dangers associated with improper use of outdoor wood furnaces and with the open burning in burning barrels of garbage, refuse, rubbish, and other similar materials. This Local Law is intended to protect and promote the public welfare. It is enacted for the purpose of promoting the health, safety and general welfare of the community.

SECTION II: - TITLE:

This Law shall be known and be cited as "A LOCAL LAW (A) REGULATING THE USE OF OUTDOOR FURNACES AND (B) PROHIBITING BURNING BARRELS OR OTHER SIMILAR CONTRIVANCES FOR THE OPEN BURNING OF GARBAGE, REFUSE, RUBBISH OR OTHER MATERIALS WITHIN THE TOWN OF JAY".

SECTION III: - ENACTMENT:

This Local law is adopted pursuant to the authority granted the Town of Jay pursuant to Section 10 of the Municipal Home Rule Law of the State of New York.

SECTION IV: - DEFINITIONS:

As used in this Local Law, the following terms shall have the meanings indicated:

OUTDOOR FURNACE – Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

UNTREATED LUMBER – Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical preservative, glue, adhesive, stain, paint or other substance.

FIREWOOD – Trunks and branches of trees and bushes but does not include leaves, needles, vines or brush smaller than three inches (3") in diameter.

GARBAGE: - The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

REFUSE: - All waste material, including but not limited to, garbage, rubbish, incinerator residue, street and lawn sweepings, clippings, grasses, dead animals and fowl.

RUBBISH: - Solid or liquid waste materials, including but not limited to, paper and paper products, rags, trees or leaves, needles and branches, vines, lawn and garden debris, furniture, cans, crockery, plastics, cartons, chemicals, paint, grease, sludge, oils and other petroleum products, wood, sawdust, demolition materials, tires and automobiles and other vehicles and parts for junk, salvage or disposal, mattresses, and rubber goods.

ENFORCEMENT OFFICER: - The Town Constable, Code Enforcement Officer and/or any other Town official appointed by the Town Board of the Town of Jay to enforce or represent the Town concerning this Local Law.

BURNING BARREL OR OTHER SIMILAR CONTRIVANCE: - Any receptacle, enclosure or container using and containing an open fire and used for the purposes of burning and incinerating garbage, refuse and rubbish designed and constructed for that purpose which releases directly into the air pollution and unhealthy byproducts by means of smoke from such burning.

OPEN FIRE: - Any fire lighted and maintained in a burning barrel as hereinabove described other than a stove or furnace used for the purposes other than the disposal and burning of garbage, refuse and rubbish

PROTECTED FIRE: - Any fire contained within a stove, furnace or other device that fully contains such fire and is so designated and constructed as to prevent the spreading of the fire or the discharge of burning particles or materials into the atmosphere used for purposes other than the disposal and incineration of garbage, refuse and rubbish.

PERMIT REQUIRED: - No person shall cause, allow or maintain the use of an outdoor furnace within the Town of Jay without first having obtained a Permit from the Town of Jay Code Enforcement Officer, Constable and/or any other Town Official appointed by the Town Board of the Town of Jay to enforce or represent the Town concerning this Local Law.

EXISTING OUTDOOR FURNACES: - Any outdoor furnace in existence on the effective date of this Local Law shall be permitted to remain provided that the owner does not violate Section V(A) and (E) and Section VI (A), (B), (C) and (D). All of the provisions of this Local law shall continue to apply to existing outdoor furnaces except paragraphs 6 (B), (C) and (D). If the owner of an existing outdoor furnace does violate this Local Law, the outdoor furnace shall be removed. "Existing" or "in existence" means that the outdoor furnace is in place and operable on the site. A replacement of any such existing outdoor furnace is not an existing outdoor furnace and will require a Permit.

SECTION V: - SPECIFIC REQUIREMENTS -

A. Permitted Fuel – Only Firewood and Untreated Lumber are permitted to be burned in any outdoor furnace. Burning of any and all other materials in an outdoor furnace is prohibited.

B. Lot – If located within 200' to 500' of any residence not served by the furnace, the furnace stack must be higher than the peak of that residence. No such furnace stack will exceed forty feet in height.

C. Setbacks – Outdoor furnaces shall be set back not less than 200 feet from any residence other than a residence served by the furnace.

D. Spark Arrestors – All outdoor furnaces shall be equipped with properly functioning spark arrestors.

E. Months of Operation – In areas zoned "Hamlet" outdoor furnaces shall be operated only between September 1st and May 31st.

SECTION VI: - SUSPENSION OF PERMIT – A Permit issued pursuant to this Local Law may be suspended as the Code Enforcement Officer may determine to be necessary to protect health, safety and welfare of the residents of the Town of Chesterfield if any of the following conditions occurs:

A. Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose land the outdoor furnace is located;

B. The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;

C. The emissions from the outdoor furnace cause damage to vegetation or property; or

D. The emissions from the outdoor furnace are or may be harmful to human or animal health.

A suspended Permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in suspension of a Permit, shall be considered a violation of this Local Law subject to the penalties provided in paragraph 9 hereof.

SECTION VII: - OPEN BURNING IN BURNING BARRELS OR OTHER SIMILAR CONTRIVANCES PROHIBITED.

It shall be unlawful to burn any garbage, refuse, rubbish or any other materials of any kind in a Burning Barrel or other similar contrivance as defined herein for the purpose of disposal of such garbage, refuse, rubbish within the Town of Jay proper as those areas are described at Schedule A attached hereto and made a part hereof.

SECTION VIII: EXCLUSIONS

The provisions of this Local Law do not apply to the maintenance and use of outdoor cooking facilities such as barbecue pits, fireplaces, gas, electric, charcoal or wood grills whether such facilities are of a permanent or portable nature provided that they do not burn garbage, refuse or rubbish.

SECTION IX: - ENFORCEMENT

Enforcement of this Local Law shall be by the Town of Jay Constable or any other individual or entity designated by the Town Board.

SECTION X: - PENALTIES FOR OFFENSES

- A. Any individual, owner, licensee, lessee as above stated who commits or permits any violation of any of the provisions of this law shall be guilty of a violation as defined by Section 55.10 of the Penal Law of the State of New York and shall be liable to a fine of not more than Two Hundred Fifty Dollars (\$250.00) or imprisonment for not more than fifteen (15) days, or both, for the first offense. Any subsequent offense shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment for a period of not more than fifteen (15) days or both. Each occasion of the improper use of an outdoor wood furnace or of a burning, open fire shall constitute a separate and distinct offense. In addition, any Permit issued pursuant to this Local Law shall be revoked upon conviction of a second offense and the subject outdoor furnace shall not be eligible for another Permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occurs shall be jointly and severally liable for violations of this Local Law. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor furnace or open burning is located or occurs until paid.
- B. In lieu of or in addition to any other penalty provided for herein, any person violating this law shall be subject to a civil penalty enforceable and collectible by the Town in the amount of Five Hundred Fifty Dollars (\$500.00) for each such offense. Such penalty shall be collectible by and in the name of the Town for each separate and distinct offense or burning.
- C. In addition to the above mentioned penalties, and punishment, the Town Board may also maintain an Action or Proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this Law.
- D. The Constable, Code Enforcement Office, Building Inspector or any other enforcement officer designated by the Town shall be and hereby is authorized to issue and serve Appearance Tickets with respect to a violation of this Law and the Town reserves the authority to designate additional or substitute enforcement officers at its discretion.

SECTION XI: SEVERABILITY

If any clause, sentence, paragraph, section or article of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION XII: EFFECTIVE DATE

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