

Chapter 90

TOWN OF NEW ARK VALLEY LOCAL LAW #1 OF THE YEAR 2010

A LOCAL LAW ENTITLED OPEN FIRES

[Adopted by the Town Board of the Town of Newark Valley
on 7-20-2010 L.L. No. 1-2010]

Be it enacted by the Town Board of the Town of Newark Valley, in the County of Tioga as follows:

Section 1

The Code of the Town of Newark Valley is hereby amended by deleting "Chapter 90 Burning, Outdoor" in its entirety and adding "Chapter 90 Open Fires" to read as follows:

§90-1. Intent

The purpose of this Chapter shall be to comply with the New York State Department of Environmental Conservation Regulations, as codified in 7 NYCRR 215.1 etc.

§90-2. Title

This Chapter shall be known and cited as the "Town of Newark Valley Open Fires Law."

§90-3. Definitions

- A. **OPEN FIRE.** 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.** The 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. **CAMP FIRE.** A camp fire or any other outdoor open fire less than three feet in height, and less than four feet in length and width or diameter.

- D. **AGRICULTURAL WASTE.** 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, large plastic storage bags (including bags commonly known as "Ag bags"), offal, tires, plastic feed bags, and other plastic or synthetic materials.
- E. **ACQUIRED STRUCTURE.** A structure donated or loaned from a property owner for the purpose of conducting fire training.
- F. **UNTREATED WOOD.** For the purposes of this Chapter, 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.** 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.

§90-4. Prohibitions

Except as allowed by §90-5 of this Chapter, no person shall burn, cause, suffer, allow or permit the burning of any material in an open fire.

§90-5. Exemptions and Restrictive Burning

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

- A. On-site burning in the Town of Newark Valley of downed limbs and branches (including) branches with attached leaves or needles) less than six inches in diameter and eight feet in length between May 15th and the following march 15th.
- B. Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.
- C. 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.

- D. On-site burning of agricultural wastes as part of a valid agricultural operation on contiguous agricultural lands larger than five 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.
- E. The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.
- F. 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.
- G. 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.
- H. Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.
- I. Prescribed burns performed according to Part 194 of the New York State Department of Environmental Conservation Regulations which regulates the intentional setting of forest land on fire under carefully controlled conditions as authorized by the New York State Department of Environmental Conservation.
- J. 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 and vinyl siding or 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.
- K. Individual open fires as approved by the Director of the Division of Air Resources of the New York State 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.
- L. Individual open fires that are otherwise authorized under the environmental conservation law, or by rule or regulation of the Department of Environmental Conservation.

§90-6. Additional Restrictions for Open Burning

- A. An open-bum permit must be obtained from the Code Enforcement Officer before any burning may take place pursuant §90-5(A), §90-5(D) and §90-5(I). All other permissible burning pursuant to this Chapter shall not require an open-bum permit.
- B. The permit is valid for 30 days from the date of issuance.
- C. The Code Enforcement Officer has the right to inspect and limit the amount of material that may be burned.
- D. Proper safety precautions must be taken before any burning takes place. These precautions include:
 - (1) Material to be burned shall be at least 50 feet from the nearest structure.
 - (2) Water and/or other extinguisher agent shall be within 20 feet of the fire at all times.
 - (3) The fire shall be supervised by the persons to whom the permit was issued until the fire is completely extinguished.
- E. Any person who violates any of the foregoing restrictions shall be deemed to have committed an offense. The Code Enforcement Officer has his order to issue an appearance ticket to any violators.

§90-7. Penalties for Offenses

Any person who commits or permits the commission of any act in violation of any of the restrictions of this Chapter shall be subject to a fine of not more than \$250.00 or imprisonment for not more than fifteen (15) days, or both fine and such imprisonment. Each day such violation shall continue or be permitted to exist shall constitute a repeat violation.

Section 2

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the ability of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Newark Valley hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4

This Local Law shall take effect immediately upon the filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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