

TOWN of Peru

Local Law #

of 2009

A LOCAL LAW REGULATING OPEN BURNING

1. Title; statutory authority.

A. This local law shall be known as the "Town of Peru Open Burning Local Law."

B. It is adopted pursuant to Municipal Home Rule Law, 510.

2. Legislative Intent.

A substantial number of people in the Town of Peru continue to burn their household garbage and are unaware of the risks of incinerating household garbage in a backyard burn barrel. The Town of Peru has found that outdoor burning of household trash can release highly toxic smoke that may contain dioxin, benzene, formaldehyde, arsenic, and cyanide, and has found that the smoke emitted from burn barrels diminishes the quality of life in the Town of Peru. Current New York State laws on open burning do not adequately protect residents in rural areas from indiscriminate burning of household waste. In New York State, the Department of Environmental Conservation, the Department of Health, the Office of the Attorney General, and the advocacy groups Environmental Advocates, Cancer Action, and the American Lung Association, among others, all support banning open burning of household waste. Therefore, the purpose of this local law is to control the use of open burning within the Town of Peru to protect public health and the environment.

3. Definitions: As used in this local law, the following terms shall have the meanings indicated.

Accepted Agricultural Use: Any use, determined by the Commissioner of New York State Department of Agriculture and Markets to be consistent with normal practices related to the employment of land, for raising, harvesting, and selling crops, or feeding, including but not limited to, grazing and watering livestock, breeding, managing, selling or producing livestock, poultry, irrigating crops, harvesting crops, using land for growing agricultural products, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, by any other horticulture, floriculture or viticulture, aquaculture, hydroponics, forestry, animal husbandry, or by a combination thereof.

Burn Barrels: An uncovered or covered drum or bucket in which household garbage and materials are burned.

HAMLET: Hamlet is described as being, any area with the Township of Peru that has been designated as either H-3, HC, or any Com -1 that is contiguous to either a H-3 or HC area.

Household Garbage: Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking, serving of foods and any unwanted or discarded solid or liquid waste material that normally originates in a residential environment.

Structure: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things structures include buildings, swimming pools, mobile homes, walls, fences and billboards.

Untreated Lumber: Wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

4. Burning Regulations

A. Prohibition of Burning Household Garbage:

- (1) No person shall cause or allow outdoor burning of household garbage in the Town of Peru.

B. Prohibition of Burning within the hamlet:

- (1) No person shall cause or allow any outdoor burning of any leaves, wood, garbage or related products within the hamlet (except as allowed in paragraph E of the document).

C. Removal of Existing Burn Barrels:

- (1) All existing burning barrels in the Town of Peru must be removed within three (3) months of the effective date of this law.

D. Exception:

- (1) Burning associated with an accepted agricultural use may continue, with appropriate permits.
- (2) The Peru Fire Department shall be allowed to conduct any fire training events at their station. Should they do off station, controlled burns within the hamlet they will notify the Codes Enforcement Officer in writing, at least seven (7) days prior to the off station burn.

E. Allowing Burning:

- (1) Burning of trees, brush, untreated lumber and leaves shall be subject to the following conditions:
 - (a) No burning of trees, brush or other untreated lumber and leaves shall take place within fifty (50) feet of any structure.
 - (b) No burn barrels shall be allowed for purposes of burning trees, brush, or other untreated lumber and leaves.
 - (c) All fires shall be attended at all times with proper extinguishing equipment available.
 - (d) All burning shall comply with all applicable codes, rules and regulations, including but not limited to the New York State DEC, the building Code of New York State, and the national Fire Protection Association Codes.
- (2) Outdoor cooking of food is a barbecue, fireplace or burning pit.
- (3) Burning of firewood, untreated lumber or charcoal in a fireplace, burning pit or commercially purchased appliance.

5. Penalties.

- a. Penalties: A violation of this local law is hereby declared to be an offense.
Violations of any provisions of this law shall be punishable as follows:

- (1) Fine for first offense: \$100
- (2) Fine for second offense: \$500
- (3) Fine for third offense: \$1,000 and up to 30 days incarceration

- b. Fines shall double if violation occurs during a "no burn" period established by any New York State regulatory agency.

6. Severability: If any section or specific part or provision or standard 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, provision or application directly involved in the controversy in which such judgement shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any section of this local law is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, or standard of these

regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.