

LOCAL LAW No. 7 OF 2009

**A LOCAL LAW INSTITUTING A MORATORIUM ON
APPROVALS CONCERNING THE CONSTRUCTION AND OPERATION
OF OUTDOOR WOOD BURNING FURNACES AND/OR BOILER UNITS
IN THE TOWN OF RUSH**

BE IT ENACTED by the Town Board of the Town of Rush, Monroe County, New York (the "Town Board") as follows:

SECTION 1: PURPOSE

The purpose of this local law is to protect the public health, safety and welfare of the residents of the Town of Rush and to maintain the status quo as to the construction of outdoor wood burning furnaces and/or boiler units located within the Town of Rush, for a period of 9 months while the Town Board analyzes and determines potential appropriate revisions and amendments to the Code of the Town of Rush (the "Code").

SECTION 2: LEGISLATIVE FINDINGS

The Town Board does hereby find that the use of outdoor wood burning furnaces and/or boiler units may create noxious and hazardous smoke, soot, fumes, odors and air pollution, and can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their properties and premises. The Town Board further hereby finds that appropriate measures must be taken to secure a temporary reasonable halt on the construction of outdoor wood burning furnaces/boiler units in order to protect the public interest while the Town Board undergoes a review and potential revision to the Code.

Therefore, the Town Board finds that it is necessary and appropriate to institute a moratorium for a period of 9 months for any construction of outdoor wood burning furnaces and/or boiler units. By maintaining the status quo for such construction until such time as appropriate consideration and potential amendments to the Code are adopted, the Town Board can provide for an orderly revision of the Code as necessary.

SECTION 3: MORATORIUM IMPOSED; APPLICABILITY

For a period of nine (9) months following the effective date of the adoption of this Local Law, no construction may proceed, no building permit may be issued by the Code Enforcement Officer, no final approval

may be given by any Town board, and no application for any variance, interpretation, appeal, or other relief may be accepted or decided by the Zoning Board of Appeals, regarding the construction of an outdoor wood burning furnace and/or boiler unit.

An "outdoor wood furnace and/or boiler unit" shall be defined to include any equipment, device, appliance or apparatus of free-standing wood, coal or bio-fuel-fired outside furnaces and boilers, 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 or water source. An outdoor wood furnace may also be referred to as an outdoor wood boiler or outdoor wood hydronic heater.

This Local Law shall be binding on the Code Enforcement Officer, Planning Board, Zoning Board of Appeals, Town Board, and any applicant or real property owner in the Town of Rush.

During the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions to the Code. During this time all applications subject to this moratorium may proceed through the Planning Board and/or Zoning Board of Appeals process at their own risk that the Code may change and materially affect their project before they have an opportunity to achieve final approval.

SECTION 4: TERM

This moratorium shall be in effect for a period of 9 consecutive months from its effective date or at such earlier time as determined by a Resolution of the Town Board.

This Local Law shall be subject to renewal for a cumulative period of an additional six (6) months, if necessary, by Resolution(s) of the Town Board.

SECTION 5: EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law (including all provisions of the Code concerning subdivision or site plan applications, and applications to the Zoning Board of Appeals), this Local Law shall control.

SECTION 6: WAIVER

Owing to the limited scope and duration of this moratorium, there is no provision being made in this Local Law for any waivers to its applicability. However, the Town Board may, but is not obligated to, promulgate regulations by a Resolution of the Town Board authorizing a hardship waiver process to this moratorium.

SECTION 7: SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 8: EFFECTIVE DATE

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