

**TOWN OF MARCELLUS  
LOCAL LAW 2-2008**

**A Local Law Prohibiting the Burning of Garbage, Rubbish and Refuse and Regulating  
Open Burning and Recreational Fires**

(Updating Local Law Number Two of the Year 1990)

Be it enacted by the Town Board of the Town of Marcellus, as follows:

Section 1. Purpose.

The purpose of this local law shall be to protect and promote the health, safety and welfare of the people of the Town of Marcellus by prohibiting the burning of garbage, rubbish and refuse and regulating open burning and recreational fires.

Section 2. Definitions.

For the purposes of this local law, the following words, phrases and terms and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular, words used in the singular include the plural, and words used in the masculine include the feminine. The word "shall" is always mandatory and not merely directory.

**Approved Container.** A properly maintained and utilized barbeque grill, barbeque pit or outdoor fireplace that utilizes a spark-arresting screen and a lid or wherein products of combustion pass through a stack or chimney from an enclosed chamber.

**Bonfire.** An outdoor fire that has a total fuel area of more than three (3) feet in diameter.

**Garbage.** Putrescent animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**Open Burning.** The burning of materials outside of an approved container wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames.

**Recreational Fire.** An outdoor fire burning materials other than garbage, rubbish or refuse where the fuel being burned consists of a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes and excluding the burning of materials for the sake of disposal.

**Refuse.** Nonputrescent and putrescent solid waste, including garbage, rubbish, ashes, incinerator residue, street cleanings, dead animals, abandoned automobiles and any parts thereof, agricultural waste, excluding usable agricultural equipment, commercial waste, industrial waste and construction and demolition debris, including commercial and industrial equipment having no value other than scrap metal.

**Town.** The Town of Marcellus.

Section 3. Prohibited Burning.

- A. No garbage, rubbish or refuse shall be burned in an open fire or in an approved contained, metal basket, can or drum in any part of the Town.
- B. Burning that will be offensive or objectionable due to smoke or odor emissions, or when atmospheric conditions or local circumstances make such fires hazardous, shall be prohibited.

Section 4. Open Burning and Recreational Fires.

- A. General. A person shall not kindle or maintain or authorize to be kindled or maintained any outdoor fires or open burning unless conducted and approved in accordance with this section.
- B. Burn Permits Required. Individual property owners shall be allowed to conduct bonfires and to burn brush and tree limbs with prior approval of the Town of Marcellus Code Enforcement Officer, who shall consider the factors of fire safety, environmental pollution and proximity of neighbors. Commercial burning of brush, wood and wood products shall be allowed with the approval of the Department of Environmental Conservation of the State of New York and the Town of Marcellus Code Enforcement Officer. Practice burns of brush, wood and structures by the Marcellus Fire Department shall be allowed with prior approval of the Town of Marcellus Code Enforcement Officer.

Exception:

- 1. Recreational fires.

- C. Location. The location for open burning shall not be less than fifty (50) feet from any structure, and provisions shall be made to prevent the fire from spreading to within fifty (50) feet of any structure. The Town of Marcellus Code Enforcement Officer may increase the required distance from structures as warranted.

Exceptions:

- 1. Fires in approved containers that are not less than fifteen (15) feet from a structure.
- 2. The minimum required distance from a structure shall be twenty-five (25) feet where the pile size is three (3) feet or less in diameter and two (2) feet or less in height.

- D. Attendance. Open burning, recreational fires and bonfires shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

Section 5. Penalties for Offenses.

Any person violating any of the provisions of this local law shall be punished, upon conviction, by a fine not exceeding five hundred dollars (\$500.00). Each day of continued violation of this local law, after written notice thereof, shall constitute a separate additional violation. In addition, the Town may also institute an action or proceeding, including an injunction, to compel compliance with or prevent violation of this local law.

Section 6. Effective Date.

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law. (03/14/08)