

**Local Law #3 of 2011 –
Chapter 55- Article III Section 55-9 – Open Fires & Incinerators
[replaces previous Article III Section 55-9 amended 7-23-2007 by L.L. No. 2-2007]**

It is the intent of this section to protect the general health, welfare and safety of the people of the Village of Depew by prohibiting open fires, which are dangerous to life and property.

A. Definitions. As used in this section, the following terms shall have the meanings indicated.

GARBAGE

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

OPEN FIRE

Any open fire or outdoor smoke-producing process from air contaminants are emitted directly into the outdoor atmosphere.

REFUSE

All waste material, including, but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals and offal.

RUBBISH

Solid or liquid waste material, including, but not limited to, paper and paper products; rags; trees or leaves, needles and branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastic cartons; chemicals; paint; grease; sludge; oils and other petroleum products; lumber; sawdust; demolition materials; tires; and automobiles and other vehicles and parts for junk, salvage or disposal.

BONFIRE

An outdoor fire utilized for ceremonial purposes.

RECREATIONAL FIRE

A recreational fire. An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 2 feet (610mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes (per 2010 Fire Code of New York State)

B. Prohibited burning. The following fires are prohibited in the Village of Depew.

- (1) The burning of garbage, refuse and rubbish in any manner is prohibited.
- (2) All open fires are prohibited in the Village of Depew, with the exception of those in conformity with the provisions of this article.
- (3) Open burning for outdoor cooking is prohibited in or on multiple dwelling structures.

C. Permitted burning. Burning in an open fire, provided that it is not contrary to any other federal, state, county or local law ordinance, rule or regulation, will be permitted as follows:

- (1) Bonfires. Bonfires shall be permitted only for a publicly sponsored celebration or event, an organization-sponsored event, or for a public or private school sponsored event. Said bonfires shall be subject to the filing and approval of a bonfire permit application with the Clerk's office, prior to any bonfire being lit and taking place. No fire shall be ignited prior to an on-site inspection of the location where the bonfire is to take place and shall be subject to any and all conditions or restrictions the Fire Marshall's office may impose for the safety of life and property. No fire shall be ignited prior to the issuance of a bonfire permit by the Fire Marshall's office and the Fire Department shall be notified 48 hours prior to igniting any bonfire permitted by the Fire Marshall's office.
- (2) Outdoor cooking. Open burning will be permitted for outdoor cooking when the fire is limited to the minimal size necessary and contained in a device or cooking utensil commonly referred to as a grill, hibachi, or smoker designated for outdoor cooking purposes. Fuels for outdoor cooking will be limited to charcoal or charcoal briquettes, natural gas, LP gas and wooden chips. All applicable and/or reasonable safety precautions shall be taken when using said devices or utensils. Outdoor cooking shall not be permitted on balconies, covered porches or covered patios.
- (3) Recreational fires. Natural gas or LP gas outdoor fireplaces or fire pits with ceramic logs, untreated wood and unpainted wood shall be permitted, provided that such appliance conforms to all other applicable Village codes. All other forms of recreational fires are prohibited.
- i. A recreational fire or any outdoor open fire shall not be greater than two feet in height and two feet in length in width and diameter, and shall be contained in a fire approved device. Said fire shall be a minimum of 15 feet away from any structure including wooden, plastic and/or vinyl fences and shall not be left unattended until fully extinguished.
 - ii. A recreational fire shall not be conducted within 15 feet (4572mm) of a structure or combustible material. Conditions which could cause a fire to spread within 15 feet (4572mm) of a structure shall be eliminated prior to ignition. (per 2010 Fire Code of New York State)
 - iii. A working fire extinguisher shall be present at all times.
 - iv. Notwithstanding the foregoing, in the event that an otherwise permitted recreational fire shall cause a nuisance or harm to a neighboring residence or occupants of said residence due to specific health issues related to said home or occupants, then the individuals charged with enforcing said provisions of this section under Section E shall retain the right in their discretion to limit or prohibit said fire.
- D. Control of fires within the Village. If, in the opinion of the Fire Marshall or Fire Chief, weather conditions are such that the starting or the continuation of burning is a risk to life, health, safety or property within the Village, said officials shall have the right to declare that any and all burning shall cease immediately until further notice.
- E. Enforcement. The Fire Marshall and such fire-fighting personnel as he or she designates, along with officers of the Depew Police are hereby vested with authority to enforce the provisions of this section. The Fire Department is hereby authorized to extinguish any open burning fire being conducted in violation of any of the provisions of this section.
- F. Penalties for offenses.

- (1) Any violation by a person, firm or corporation of any provision of this section shall be deemed a violation pursuant to Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days or both.
- (2) Any person who takes part in or assists in any violation of this section shall be subject to the penalties provided therein.
- (3) Each day (twenty- four- hour period) that a violation of this section is committed or permitted to exist shall be deemed to constitute a distinct and separate violation.

G. Severability and Priority. If any part of the Local Law shall be judicially declared to be invalid, void, unconstitutional, or unenforceable, all unaffected provisions hereof shall survive such declaration, and this Local Law shall remain in full force and effect as if the invalidated portions had not been enacted. This law shall not supersede any other law, but if there is a conflict with any other law the stricter of the two shall apply.

H. Effective Date. This Local Law shall become effective when it is filed with the Secretary of State pursuant to the Municipal Home Rule Law.