

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED
STATE RECORDS
JAN 25 2010

DEPARTMENT OF STATE

~~County~~
~~City~~ of CLAY
~~Town~~
~~Village~~

Local Law No. 4 of the year 20 09

A local law Amending Chapter 230 entitled 'ZONING', Section 230-13A(2)(a) delete [5][6], (b) add add [3] and ^{(b) add [4]}; (c) add [7] and (d) add [7] [3] and [4] to (e) add [8], amend Section 230-17 C. I-1 Industrial 1 District, (2) (c) add [2]; Section 230-17D I-2 Industrial 2 District, (2) (e) add [4] and to Section 230-20 add E Outdoor Furnaces.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Clay, New York as follows:
~~Town~~
~~Village~~

SEE ATTACHED LOCAL LAW

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**(Complete the certification in the paragraph that applies to the filing of this local law and
strike out that which is not applicable.)**

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 20 09 of the (County)(City)(Town)(Village) of Clay was duly passed by the Town Board on October 19th 2009, in accordance with the applicable provisions of law.
(Name of Legislative body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

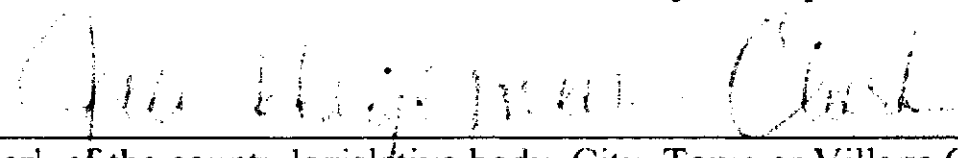
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20_____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20_____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 , above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body
JILL HAGEMAN-CLARK
Date: _____

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature _____
ROBERT M. GERMAIN, TOWN ATTORNEY
Title _____

~~XXXX~~
City of Town of Clay
Town _____
Village _____

Date: _____

LOCAL LAW NO. 4 OF THE YEAR 2009

TOWN OF CLAY

LOCAL LAW NO. 4 OF THE YEAR 2009 AMENDING CHAPTER 230, entitled “**ZONING**”, **SECTION 230-13A. RA-100 Residential Agricultural District**, subsection (2)[a], [b], [c] and [e] by adding and deleting categories, **SECTION 230-17C. I-1 Industrial 1 District**, subsection (2)[c] and [d] and **230-17D. I-2 Industrial 2 District**, subsection (2)[e], by adding new categories, and to add to, **Article IV, Supplemental Regulations, SECTION 230-20 Land Uses and Structures**, paragraph **B. Structures**, by adding a new paragraph **E.** to be entitled **Outdoor Furnaces** to the code of the Town of Clay.

IT IS ORDAINED AND ENACTED by the Town Board of the Town of Clay, County of Onondaga as follows:

SECTION 1. Adds and deletes categories in **Section 230-13A**, by adding new categories to **Section 230-17C**, **Section 230-17D**, and to add a new paragraph **E. Outdoor Furnaces** to **Section 230-20B Supplemental Regulations, Land uses and structures** to the Code of the Town of Clay.

The purpose of this Local law 2009-04 adds more uses through the Planning Board Site Plan and Special Permit approval process; the Town Board Special Permit approval process and optional advisory referral to the Planning Board process and delete categories from the Office of Planning and Development issuing building permit process and add a new category to be entitled “Outdoor Furnaces” to **Section 230-20. Land uses and structures, B. structures.**

Said Local Law to read as follows:

Town Board passed a resolution at the meeting of August 17th, 2009, calling a public hearing for September 9th, 2009 at 7:35 P.M., local time.
Town Board Meeting September 9th, 2009, public hearing adjourned to October 5th, 2009 at 7:35 P.M., local time.
Town Board Meeting held a public hearing on October 5th, 2009 at 7:35 P.M., local time
Town Board Meeting October 19th, 2009 Town Board approved Local Law No. 4 of the Year 2009.
Local Law sent to Dept of State November 9th, 2009.

§ 230-13A. RA-100 Residential Agricultural District (based on A-1), (2.) Uses Allowed:

- (a) **Delete** [5] Nursery, commercial.
Delete [6] Greenhouse, commercial.
- (b) [3] Nursery, commercial.
[4] Greenhouse, commercial.
- (c) [7] Special use.
- (e) [8] Outdoor furnace.

§ 230-17 C. I-1 Industrial 1 District. (2.) Uses allowed.

- (c) [2] Contractor's service yard.

§ 230-17 C. I-1 Industrial 1 District. (2.) Uses allowed.

- (c) [2] Outdoor furnace.

§ 230-17 D. I-2 Industrial 2 District. (2.) Uses allowed.

- (e) [4] Outdoor furnace.

§ 230-20 Supplemental Regulations Land Uses and structures, B. Structures.

E. Outdoor Furnaces.

- (1) **Purpose.** This local law provides for the implementation of a policy to regulate outdoor furnaces so that residents and commercial establishments will continue to have clean air and an environment free of obnoxious odors, noxious fumes and smells. Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This chapter is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.
- (2) **Permits Required.** The Town Board shall issue a special permit for the use of an outdoor furnace, prior to the issuance of any building permits. No person shall cause, allow or maintain the use of an outdoor furnace within the Town of Clay

without first having obtained a permit from the Department of Planning and development. Application for permit shall be made on the forms provided by the Department of Planning and Development. Upon approval by the code enforcement officer, a certificate of compliance will be issued.

(3) Specific Requirements.

- (a) Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor furnace.
- (b) Prohibited substances. Industrial waste, rubber, plastic, used motor oil, toxic chemicals, contaminated waste, yard waste, household garbage, cardboard and wastepaper, animal waste and any material prohibited for combustion by federal or state statute.
- (c) Permitted zones. Outdoor furnaces shall be permitted **only** in the *RA-100*, *I-1* and *I-2* Zoning Districts as shown on the Town's Zoning Map.
- (d) Minimum lot size. Outdoor furnaces shall be permitted only on lots of three (3) acres or more.
- (e) Setbacks. Outdoor furnaces/wood storage shall be set back not less than 100 feet from the nearest lot line.
- (f) Outdoor furnaces shall not be located closer than 25 feet to any other structure.
- (g) Months of operation. Outdoor furnaces shall be operated only between September 1 and May 31.
- (h) Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.
- (i) No outdoor furnace shall be utilized in any manner as a waste incinerator.

(4) Suspension of Permit. A permit issued pursuant to this chapter may be suspended as the Code Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Clay if any of the following conditions occurs:

- (a) Emissions from the outdoor furnace exhibit greater than 20% opacity (six minute average), except for one continuous six-minute period per hour of not more than 27% opacity, which shall be determined as provided in 6 NYCRR 227-1.3(b);
- (b) Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose land the outdoor furnace is located;
- (c) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
- (d) The emissions from the outdoor furnace cause damage to vegetation or property; or
- (e) The emissions from the outdoor furnace are or may be harmful to human or animal health.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this chapter subject to the penalties provided in § 230-20 E.(7) hereof.

(5) Nonconforming Outdoor Furnaces. See Section 230-23 *Nonconformities*

- (6) **Enforcement.** This chapter shall be enforced by the Code Enforcement Officer of the Town of Clay.
- (7) **Penalties For Offenses.** Failure to comply with any of the provisions of this chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$250 for each day or part thereof during which such violation continues. In addition, any permit issued pursuant to this chapter shall be revoked upon conviction of a second offense and the subject outdoor furnace shall not be eligible for another permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor furnace is located until paid.
- (8) **Effect On Other Regulations.** Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, or any other federal, state, regional or local agency. Outdoor furnaces, and any electrical, plumbing or other apparatus or device used in connection with an outdoor furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and recommendations and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this chapter and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

EFFECTIVE DATE.

This proposed Local Law shall take effect upon filing in the Office of the Secretary of State.

The Post-Standard

PROOF OF PUBLICATION

State of New York, County of Onondaga ss. Ben Mitchell, of the City of Syracuse, in said County, being duly sworn, doth depose and says: she is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Advertiser: TOWN OF CLAY

Reference #: 0000128135

PO #:

Product: Post-Standard-Full Run

Start Date: 08/28/2009

End Date: 08/28/2009

Insertions: 1

Run Dates: 08/28/2009

Ben Mitchell

Principal Clerk

Subscribed and Sworn to before me, this 08/28/2009



NOTARY PUBLIC, ONONDAGA COUNTY, NY Commission Expires

FRANCES SALVATORE

Notary Public, State of New York

No. 01SA6164434

Qualified in Onondaga County

My Commission Expires April 23, 2011

TOWN OF CLAY PUBLIC HEARING NOTICE: PLEASE TAKE NOTICE that there has been introduced before the Town Board of the Town of Clay, County of Onondaga and State of New York, on the 17th day of August 2009, proposed Local Law No. 4 of the Year 2009, Amending Chapter 230 entitled "ZONING", Section 230-13A, RA-100 Residential Agricultural District, (based on A-1), subparagraph (a) delete [5] Nursery, commercial and [6] Greenhouse, commercial; to subparagraph (b) add [3] Nursery, Commercial and [4] Greenhouse, commercial, to (c) add, (6) special use, and to (e) add (8) outdoor furnace; amend Section 230-17C, 1-1 Industrial 1 District (2) Uses allowed, (c) add [2] Contractor's service yard and to (e) add [2] Outdoor Furnace and to Section 230-17D, 1-2 Industrial 2 District (2) Uses allowed, (e) add [4] Outdoor furnace, and to amend Article IV, Supplemental Regulations, Section 230-20 Land Uses and structures; add a new paragraph E, Outdoor Furnace to said code of the Town of Clay. The purpose of this proposed local law 2009-04 is to amend Chapter 230, entitled "ZONING" of the Code of the Town of Clay, Sections 230-13, 230-17 and 230-20 is to provide more uses through the Planning Board Site Plan and Special Permit approval process; the Town Board Special Permit approval process and optional advisory referral to the Planning Board process and to delete categories from the Office of Planning and Development, issuing building permit process and to add a new category to be entitled "Outdoor Furnaces". PLEASE TAKE FURTHER NOTICE that pursuant to Section 20 of the Municipal Home Rule Law, a public hearing will be held on the aforesaid proposed local law before the Town Board of the Town of Clay at the Town Hall of the Town of Clay, located at 4401 State Route 31, Clay, New York, on the 9th day of September 2009, commencing at 7:35 P.M., local time, at which time all interested persons will be given an opportunity to be heard. DATED: August 25th, 2009 TOWN BOARD OF THE TOWN OF CLAY, ONONDAGA COUNTY, NEW YORK, BY: JILL HAGEMAN-CLARK, TOWN CLERK