

Local Law Filing

(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.

County

City of

Cape Vincent

Town

Village

Local Law No. 1 of the year 20 05

A local law impose restrictions on the construction and operation of
(insert title)

outdoor furnaces.

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

County

City of

Cape Vincent

as follows:

Town

Village

Article 1. - Statement of Authority. The Board of Trustees of the Village of Cape Vincent, pursuant to the authority granted it under Article 4-412 of the Village Law and Sections 10 and 20 of the Municipal Home Rule Law, hereby enacts as follows:

Article 2. - Statement of Purpose and Findings. It is the intention of this law to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the village for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Village and its inhabitants. It is generally recognized that the types of fuel used, and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, and air pollution, can be detrimental to citizen's health and can deprive neighboring residents of the enjoyment of their property or premises. These problems are intensified in the Village due to the density of population.

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

Article 3. - Enactment. The Board of Trustees of the Village of Cape Vincent hereby enacts an outdoor furnace law as follows:

Section 1. Definition.

As used in this law, "outdoor furnace" shall mean an accessory structure, designed and intended, through the burning of wood, coal or other material for the purpose of heating the principal structure, or any other site structure on the premises.

Section 2. Prohibition.

The construction and operation of outdoor furnaces are hereby prohibited within the Village of Cape Vincent.

Section 3. Non-conforming Uses/Abatement.

A. Continuation of non-conforming uses.

The lawful use of any existing "outdoor furnace" existing at the time of the adoption of this local law may be continued for up to one year, although such use does not conform with the provisions of this Local Law. After one year such non-conforming use must be discontinued or brought into compliance with the Law.

B. Extension or Enlargement.

No "outdoor furnace" shall hereinafter be extended or enlarged.

C. Abandonment and Discontinuance.

Any "outdoor furnace" which is abandoned or discontinued for a period of seven (7) months shall not be permitted to be re-established as a non-conforming use and must be immediately removed by the property owner from the subject premises. If the property owner fails to remove the "outdoor furnace" by the end of said seven (7) month period, the Village of Cape Vincent Enforcement Officer shall give written notice by certified mail or personal service to the property owner upon which the "outdoor furnace" is located. Such notice shall provide that such person shall remove the same within fifteen (15) days of the notice. Should the "outdoor furnace" not be removed in the time specified, the Enforcement Officer shall arrange for its removal. The cost of said removal shall be charged to the owner of said premises. Said cost, if not paid, shall be assessed and collected in the same manner, by the same proceeds, at the same time, under the same penalties and having the same lien upon the property so assessed as the General Village Tax and as a part thereof.

D. Restoration

No "outdoor furnace" which has been damaged by natural causes to the extent of more than seventy five percent (75%) of its assessed value for Village of Cape Vincent tax purposes shall be repaired or rebuilt.

4. Penalties.

Any person who shall violate any provision of this law shall be guilty of a violation as defined in Article 10 of the Penal Law and shall upon conviction be subject to a fine of not more than \$250.00 dollars or to imprisonment for not more than 15 days or both such fine and imprisonment. Each week's continued violation shall constitute a separate and distinct offense.

5. Civil Proceedings.

Compliance with this law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this law shall also be subject to a civil penalty of not more than five hundred and 00/1000 dollars (\$500.00), to be recovered by the Village in a civil action and each week's continued violation shall be for this purpose a separate and distinct violation. In the event the Village is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs relative thereto, including reasonable attorney's fees, and such expense shall be charged to the property so affected by including such expense in the next annual tax levy against the property.

6. Authority of the Village.

The Village Board of the Village of Cape Vincent or its enforcement officer are hereby authorized in the name and on behalf of the Village to undertake and prosecute any proceedings necessary or appropriate to enforce compliance with this law.

Article 4. - Severability. If any part of this Chapter shall be found to be void, voidable, or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

Article 5. - Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.