

RESOLUTION 110-08 APPROVED LOCAL LAW # 2 OF 2008 ENTITLED OUTDOOR FURNACES

A LOCAL LAW TO REGULATE THE USE OF OUTDOOR FURNACES IN THE TOWN OF WILMINGTON

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF WILMINGTON AS FOLLOWS:

1. **Title and Authority** - This Local Law shall be known as the Town of Wilmington Outdoor Furnace Local Law. It is adopted pursuant to Municipal Home Rule Law Section 10.
2. **Legislative Intent** - Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impact of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This Local Law 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.
3. **Definitions** - "Outdoor Furnace" means any equipment, device or apparatus, 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.

"Untreated Lumber" means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

"Firewood" means trunks and branches of trees and bushes but does not include leaves, needles, vines or brush smaller than three inches (3") in diameter.
4. **Permit Required** - No person shall cause, allow or maintain the use of all Outdoor Furnace within the Town of Wilmington without first having obtained a permit from the Town Code Enforcement Officer. Application for permit shall be made to the Code Enforcement Officer on the forms provided.
5. **Existing Outdoor Furnaces** - Any permitted Outdoor Furnace in existence on the effective date of this Local Law shall be permitted to remain provided that the owner does not violate Section 6(A) and (E) and Section 7 (A), (B), (C) and (D). All of the provisions of this Local Law shall continue to apply to existing Outdoor Furnaces except paragraphs 6(B), (C) and (D). If the owner of an existing Outdoor Furnace does violate this Local Law, the Outdoor Furnace shall be removed. "Existing" or "in existence" means that the Outdoor Furnace is in place and operable on the site. A replacement of any such existing Outdoor Furnace is not an existing Outdoor Furnace and will require a permit.

Furthermore, all residents with an existing Outdoor Furnace must within one (1) year of the effective date of this Local Law be in compliance with the provisions set forth herein. Failure of any resident to meet said requirements will result in the imposition of sanctions as hereinafter set forth.

6. **Specific Requirements**

- A. **Permitted Fuel** - Only Firewood and Untreated Lumber are permitted to be burned in any Outdoor Furnace. Burning of any and all other materials in an Outdoor Furnace is prohibited.
- B. **Lot** - If located within 200-500 feet of any residence not served by the furnace the furnace stack must be higher than the peak of that residence. No such furnace stack will exceed thirty-five (35) feet in height.
- C. **Setbacks** - Outdoor Furnaces shall be set back not Less than 200 feet from any residence other than a residence served by the furnace.
- D. **Spark Arrestors** - All Outdoor Furnaces shall be equipped with properly functioning spark arrestors.
- E. **Months of Operation** - Outdoor Furnaces shall be operated only between September 1 and May 31.

7. **Suspension of Permit**- A permit issued pursuant to this Local Law may be suspended as the Code Enforcement Officer may determine to be necessary to protect health, safety and welfare of the residents of the Town of Wilmington if any of the following conditions occurs.

- A. Malodorous air contaminants from the Outdoor Furnace are detectable outside the property of the person on whose land the Outdoor Furnace is located;
- B. The emissions from the Outdoor Furnace interfere with the reasonable enjoyment of life or property;
- C. The emissions from the Outdoor Furnace cause damage to vegetation or property; or
- D. 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 Local Law subject to the penalties provided in paragraph 9 hereof,

8. **Enforcement; Revocation of Permit** - Failure to comply with any of the provisions of this Local Law shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$500 or imprisonment for a period of not more than ten (10) days, or both, for the first offense. Any subsequent offense shall be punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than thirty (30) days, or both, in addition any permit issued pursuant to this Local Law 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 Local Law, any fine imposed hereunder shall constitute a lien upon the real property where the Outdoor Furnace is located until paid.

9. **Effect of 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, Adirondack Park Agency, 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 any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provisions of this Local Law and any applicable Federal, State or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provisions or requirements shall prevail.

10. **Severability** - The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

11. **Repealer** - All Local Laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local Law are hereby repealed.

12. **Effective Date** - This Local Law shall take effect upon filing in the office of the New York State Secretary of State or as otherwise provided by law.