

LOCAL LAW NO 4 OF 2008

A LOCAL LAW REGULATING OUTDOOR FURNACES

§ 1. Title; statutory authority.

- A. This chapter shall be known as the "Town of East Fishkill Outdoor Furnace Local Law."
- B. It is adopted pursuant to Municipal Home Rule Law, § 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 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.

§ 3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FIREWOOD -- Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

OUTDOOR FURNACE -- 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 -- 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.

§ 4. Permit required.

No person shall cause, allow or maintain the use of an outdoor furnace within the Town of East Fishkill without first having obtained a permit from the Building Inspector. Application for permit shall be made to the Building Inspector on the forms provided.

§ 5. Existing outdoor furnaces.

Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain, provided that the owner applies for and receives a permit from the Town Building Inspector within one year of such effective date; provided, however, that upon the effective date of this chapter all the provisions hereof, shall immediately apply to existing outdoor furnaces. If the owner of an existing outdoor furnace does not receive a permit within one year of the effective date of this chapter, the outdoor furnace shall be removed. "Existing" or "in existence" means that the outdoor furnace is in place on the site. No replacement of an outdoor furnace will be allowed without full compliance with the requirements herein.

§ 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. Permitted zones. Outdoor furnaces shall be permitted only in the R-1 or larger Zoning Districts as shown on the Town's Zoning Map provided the parcel is at least 1 acre.

C. Minimum lot size. Outdoor furnaces shall be permitted only on lots of one acre or more.

D. Setbacks. Outdoor furnaces shall be set back not less than 50 feet from the nearest lot line and must be within 25 feet of the house that it serves, permitted in the rear yard only and at least 100 feet from the nearest residence.

E. Months of operation. Outdoor furnaces shall be operated only between October 1 and April 30.

F. Spark arrestors. All outdoor furnaces, if so equipped, will maintain properly functioning spark arrestors.

G. Stack location. The stack must be 2 feet higher than the peak of the residence, and a minimum of 20 feet above the ground.

H. The only fuels allowed shall be those listed fuels recommended by the manufacturer. The following are prohibited: trash, plastics, gasoline, rubber, mayslitha, and household garbage, material treated with petroleum products (particle board, railroad ties and pressure treated wood), leaves, paper products and cardboard).

I. Lighter fluids, gasoline or chemicals to start the furnace are prohibited.

- J. The unit must be located with due consideration to the prevailing wind direction.
- K. Users must follow manufacturers written instructions for recommended loading times and amounts.
- L. Must be UL and EPA listed.
- M. Must be in the rear yard only.

§ 7. Suspension of permit.

A. A permit issued pursuant to this chapter may be suspended as the Building Inspector may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of East Fishkill if any of the following conditions occurs:

- (1) 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);
- (2) Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose land the outdoor furnace is located;
- (3) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
- (4) The emissions from the outdoor furnace cause damage to vegetation or property; or
- (5) The emissions from the outdoor furnace are or may be harmful to human or animal health.

B. 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 § 9 hereof.

§ 8. Waivers.

Where the Zoning Board of Appeals finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this chapter or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the

Zoning Board of Appeals may impose such conditions and requirements as it deems reasonable and prudent. The Zoning Board of Appeals will hold a public hearing as part of its review. If the Zoning Board of Appeals grants the waiver, a permit shall be issued for the outdoor furnace. If the Zoning Board of Appeals denies the waiver, the outdoor furnace must either be brought into compliance with this chapter or removed. If the Zoning Board of Appeals does not take any action with respect to the waiver within 60 days from its receipt of an application for waiver, the waiver shall be deemed denied.

In no event may any variance be given with respect to side and rear-line set backs or stack height, or lot sizes.

§ 9. 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 less than \$500 or imprisonment for a period of not more than 10 days, or both, for the first offense. Any subsequent offense shall be punishable by a fine of not less than \$1,000 or imprisonment for a period of not more than 30 days, or both. 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.

§ 10. 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 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.

**Adopted on August 28, 2008
At a Regular Meeting Held at
The Town Hall, 330 Route 376,
Hopewell Junction, NY**