

# 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.

DRAFT 7-17-08

- County
- City of Philipstown
- Town
- Village

Local Law No. \_\_\_\_\_ of the year 20 08

A local law to amend the Code of the Town of Philipstown by adding a new  
(Insert Title)  
Chapter 121 to be entitled "Outdoor Furnace Law", which Chapter  
provides for permits and regulations of such Furnaces, and for  
penalties for violation of the Chapter.

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

- County
- City of Philipstown as follows:
- Town
- Village

(Delete this line of text and enter text of local law here)

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

SECTION 1. The Code of the Town of Philipstown is hereby amended by adding thereto a new Chapter 121 to be entitled "Outdoor Furnace Law", to read as follows:

## CHAPTER 121

### OUTDOOR FURNACES

#### §121-1. Title; statutory authority.

A. This Chapter shall be known as the "Outdoor Furnace Law" of the Town of Philipstown.

B. It is adopted pursuant to Municipal Home Rule Law, §10.

#### §121-2. 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.

#### §121-3. Definitions.

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

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

B. 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.

C. 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.

#### §121-4. Permit required.

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

**§121-5. Existing outdoor furnaces.**

- A. Any outdoor furnace in existence on the effective date of this Chapter, which has received a permit from the Town, shall be permitted to remain. No replacement of an existing outdoor furnace will be allowed without full compliance with the requirements herein. "Existing" or "in existence" means that the outdoor furnace is in place on the site.
- B. All other outdoor furnaces must comply with the provisions of this Chapter.

**§121-6. Specific requirements.**

- A. Permitted fuel. Only firewood, untreated lumber and fuels recommended by the manufacturer are permitted to be burned in any outdoor furnace. Burning of any and all other materials in an outdoor furnace, including but not limited to: trash, plastics, gasoline, rubber, mayslitha, household garbage, material treated with petroleum products (particle board, railroad ties and pressure treated wood), leaves, paper products and cardboard, is prohibited.
- B. Minimum lot size. Outdoor furnaces shall be permitted only on lots of three acres or more.
- C. Setbacks. Outdoor furnaces shall be set back not less than 75 feet from the nearest lot line and shall be at least 300 feet from the nearest residence.
- D. Months of operation. Outdoor furnaces shall be operated only between November 1 and April 15.
- E. Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.
- F. Stack location. The stack must be 2 feet higher than the peak of the residence, and a minimum of 20 feet above the ground.
- G. Lighter fluids, gasoline or chemicals to start the furnace are prohibited.
- H. The unit must be located with due consideration to the prevailing wind direction.
- I. Users of outdoor furnaces must follow manufacturers written instructions for installation, use and recommended loading times and amounts.
- J. Outdoor furnaces must be UL listed.
- K. Outdoor furnaces must be in the rear yard only.

**§121-7. Suspension of permit.**

A. A permit issued pursuant to this Chapter may be suspended by the Code Enforcement Officer as he may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Philipstown 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) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;

(3) The emissions from the outdoor furnace cause damage to vegetation or property; or

(4) 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 §121-9 hereof.

**§121.8. Waivers.**

A. The Zoning Board of Appeals may vary these 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. If the Zoning Board of Appeals grants the variance, a permit shall be issued for the outdoor furnace. If the Zoning Board of Appeals denies the variance, 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 set backs, stack height, or lot sizes.

B. Application for a variance from the requirements of this Chapter shall be made in the same manner and in accordance with the same procedure, as an Application for a Zoning Variance pursuant to the provisions of the Zoning Law of the Town.

**§121-9. 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 any premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Chapter.

**§121-10. 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.

**121-11. Severability.**

If any such section, subsection, sentence, clause, phrase or word of this local law is for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions hereof.

**Section 2. Effective Date.** This Local Law shall become effective immediately upon its filing with the Secretary of State.