

Chapter 68: OUTDOOR FURNACE

§ 68-1. Title; statutory authority.

A. This chapter shall be known as the "Village of South Blooming Grove Outdoor Furnace Local Law."

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

§ 68-2. 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 Village.

§ 68-3. 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.

§ 68-4. Permit required.

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

§ 68-5. Pre-Existing outdoor furnaces.

Any outdoor furnaces installed prior to the effective date of this chapter ("pre-existing" outdoor furnaces as adequately documented by the resident / owner and acceptable to the building inspector and / or code enforcement officer of the village) shall be permitted to remain, provided that the owner applies for and receives a permit to operate the outdoor furnace from the Building Inspector **within 60 days of such effective date**. Upon the effective date of this chapter all installed outdoor furnaces must comply with the provisions hereof, except **§68-6B and C**. If the owner of an existing outdoor furnace does not receive a permit **within 60 days of the effective date of this chapter**, the outdoor furnace shall be removed at the owner's expense.

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§ 68-6. 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 RR Zoning District as shown on the Village's Zoning Map.

C. Minimum lot size. Outdoor furnaces shall be permitted only on lots of three (3) acres or more.

D. Setbacks. Outdoor furnaces shall be set back not less than 250 feet from the nearest adjoining or neighboring dwelling and must be a minimum of 15 feet from the house that it serves. Further, in any event the furnace shall be located a minimum of 150 feet from the adjoining property line.

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

F. Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.

G. Chimney height. Must conform to manufacturer's specifications.

H. Start Fluids. Using lighter fluids, gasoline, chemicals or other flammable substances to start the furnace is prohibited.

J. Wind consideration. The unit must be located with due consideration to the prevailing wind direction.

K. Manufacturers instructions. Users must follow manufacturers written instructions for recommended loading times and amounts.

L. Compliant. Must be UL and EPA listed.

M. Location. Must be in the rear of the dwelling only.

§ 68-7. Suspension of permit.

A. A permit issued pursuant to this chapter may be suspended as the Village's Code Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Village of South Blooming Grove 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

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(5) The emissions from the outdoor furnace are or may be harmful to human or animal health.

(6) The outdoor furnace discharges gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes **directly** upon abutting or adjacent public or private property or that of another tenant.

B. A suspended permit may be reinstated once the condition which resulted in suspension is remedied to the satisfaction of the Building Inspector/Code Enforcement Officer. 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 § [68-9](#) hereof.

§ 68-8. Waivers.

Where extraordinary and unnecessary hardships may result from strict compliance with this chapter, the Village's Zoning Board of Appeals will hear all person(s) seeking a waiver or variance from this chapter. If the Zoning Board of Appeals denies the waiver, the outdoor furnace must either be brought into compliance with this chapter or be removed at the owner's expense.

§ 68-9. Penalties for offenses.

A. Violations. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$800 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$800 nor more than \$1,500 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. The owners or occupants of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter. Any fine imposed hereunder shall until paid, constitute a lien upon the real property where the outdoor furnace is located.

B. Appropriate Village actions. In case any outdoor furnace is erected, constructed, reconstructed, altered, converted or maintained or any outdoor furnace is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of an outdoor furnace(s); and to restrain, correct or abate such violation; to prevent the use of an outdoor furnace(s); or to prevent any illegal act, conduct, business or use, in or about such outdoor furnace(s).

§ 68-10. 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

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provision or requirement shall prevail. Outdoor furnaces must conform to all other applicable regulations of the Village's Zoning Chapter [235](#).

§ 68-11. Enforcement by Village Board.

The Building Inspector and Code Enforcement Officer shall be responsible for enforcing the provisions of this article and such rules, regulations, specifications and requirements as are promulgated pursuant to this article.

§ 68-12. Judicial review.

Any persons aggrieved by any decision or determination made by the Village Board pursuant to this article may bring a proceeding to review such determination in the manner provided by Article 78 of the Civil Practice Law and Rules.

§ 68-13. Application.

No statement in this article shall be construed to interfere with any additional requirements that may be imposed by any federal, state or local health authority having jurisdiction.

§ 68-14. Authority.

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

§ 68-15. Repeal.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

§ 68-16. Effective Date.

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.