

Local Law #3-2009  
Outdoor Wood-Burning Furnace Law

Section 1. Authority

This law is adopted pursuant to the authority of Article II, Section 10(1)(ii)(a) of the Municipal Home Rule Law.

Section 2. Findings

Despite the providing of an economic alternative to conventional heating systems, it is recognized by the Board of Trustees of the Village of Fonda-based upon complaints received from local residents and findings of the Attorney General regarding the increase in pollution caused by short chimney smoke release and extensive fine particulate emissions- that the scale, duration and necessary manner of burning associated with outdoor wood burning furnaces' creates noxious and hazardous smoke, soot fumes, odors and air pollution which is potentially detrimental to the health, comfort, convenience, safety and welfare of local inhabitants, as well as the public at large and local environment, and further deprives neighboring residents of the enjoyment of their property or premises.

Section 3. Definitions

As used in this law, the following terms are described as follows:

Outdoor Wood-Burning Furnaces shall mean any freestanding combustion unit accessory structure, or appliance, designed for a location ordinarily outside the home and which transfers or provides heat, via liquid or other means, by the burning of wood or solid waste, to locations including, but not limited to, homes, garages, swimming pools, hot tubs and Jacuzzis.

Person shall mean property owner, builder, installer or user whether a human being or legal entity.

Property Owner shall mean either the record titleholder, lessee, or land contract buyer of applicable premises, or all such parties.

Section 4. Purpose

It is the intention of the Board of Trustees of the Village of Fonda by the adoption of this law, as hereafter applicable within municipal boundaries, to prohibit the construction and operation of outdoor wood-burning furnaces and to establish and impose restrictions upon Outdoor Wood Burning furnaces existing at the time of this enactment.

Section 5. Prohibition

The construction and operation of outdoor wood-burning furnaces, and the continuing operation of existing outdoor wood-burning furnaces neither in compliance with manufacturer's guidelines nor the non-conforming uses criteria hereafter designated, are prohibited within the Village of Fonda thereby

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subjecting any builder, installer, property owner or user of such furnace to the penalties and remedies described herein.

Section 6. Non-conforming Uses

Outdoor wood-burning furnaces existing at the time of adoption of this local law shall be deemed continuing non-conforming uses subject to the following conditions, restrictions, and requirements.

- A. No such furnace shall hereafter be extended or modified.
- B. Any such furnace which is abandoned or discontinued for a continuous period of seven (7) months shall not be re-established as a non-conforming use and must be immediately removed by the property owner or user from the subject premises.
- C. No such furnaces which have been damaged by natural causes to the extent or more than seventy five per cent (75%) of their assessed values for local tax purposes shall be repaired or rebuilt for use in the Village of Fonda.
- D. To insure appropriate and continuing compliance with manufacturer guidelines and all applicable New York State Codes, all such furnaces, as may be directed by the enforcement officer, are subject to random testing and installation verification at the sole expense of the property owner or user.
- E. All property owners or users of such furnaces, at a cost of fifty (\$50.00) dollars per year, or such greater amount as may hereafter be periodically determined by the Board of Trustees, must secure an annual permit from the enforcement officer and file with him or her the most recent operation and maintenance guidelines that may have been furnished by the manufacturer.
- F. No such furnaces shall be used to burn any substance except natural and properly seasoned wood.
- G. The smokestack of such furnaces shall be higher than any building located within fifty (50) feet, inclusive of any building situated on the subject premises.
- H. Notwithstanding compliance with all non-conforming use conditions, restrictions and requirements hereon, no property owners or users of such furnaces, in regard to the ultimate effects of its operation, shall be considered exempt from an alleged violation of other laws, which may be applicable.

Section 7. Non-Criminal Proceedings and Penalties

Any person who violates any provision of this law shall, in a court of competent jurisdiction be guilty of a violation as defined in Article 10 of Penal Law and shall upon conviction, in addition to applicable surcharge, be subject to a fine of not more than two hundred fifty (\$250.00) dollars, or to imprisonment for not more than fifteen (15) days, or both such fine and imprisonment. Each week's continued violation shall constitute a separate and distinct offense.

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Nothing herein contained shall prevent a court of competent jurisdiction from imposing a sentence of unconditional discharge or conditional discharge, or a disposition of adjournment in contemplation of dismissal, in accordance with, and as all defined in , the Penal Law and Criminal Procedure Law.

Section 7. Authority of the Village

The Village Board of the Village of Fonda, or its enforcement officer, is hereby authorized in the name and in behalf of the Village to undertake and prosecute and proceedings necessary or appropriate to enforce compliance with this law.

Section 8. Enforcement Officer

The Code Enforcement Officer of the Village of Fonda, as enforcement officer, shall have the authority to enforce the various provisions of this local law and to issue an appearance ticket, as defined in the Criminal Procedure Law, for alleged non-criminal violation.

Section 9 Severability

The provision of this law are severable and the invalidity of a particular provision shall not invalidate any other provisions.

Section 10. Conflicting Provisions of Law

The provisions of this local law shall supersede any provision of other local law to the contrary.

Section 11. Effective Date

This law shall take effect immediately upon filing in the office of the Secretary of State and shall thereafter be enforced upon any approval that may be necessary by the State Codes Council.