

Public Hearing
Local Law 2-2009 Outdoor Furnaces
July 13, 2009

A Public Hearing was held in the Hamlin Town Hall located at 1658 Lake Rd., Hamlin, New York, in order to consider a Local Law enacting Chapter 59 of the Code of the Town of Hamlin to Establish Regulations for Outdoor Furnaces.

Present: Supervisor Dennis Roach, Councilperson Tom Breslawski, Councilperson Mike Marchetti, Councilperson Paul Rath, Councilperson David Rose excused. Also Present: Craig Goodrich, Peter Terry, and Scott Witte.

Supervisor Roach briefly explained the Public Hearing was to consider a Local Law to establish regulations for outdoor furnaces. He explained that the 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, welfare and safety of the residents of the town. He provided definitions for “Outdoor Furnace”, “Untreated Lumber”, and “Firewood”. A permit will be required from the Building Inspector. Any outdoor furnace in existence on the effective date of this Local Law shall be permitted to remain provided that the owner applies for and receives a permit from the Town Building Inspector within one (1) year of such effective date. “Existing” or “in existence” means that the outdoor furnace is in place on the site. The current owners of existing outdoor furnaces would be liable for compliance with Specific Requirements for A (Permitted Fuel) and E (Spark Arrestors). They would be excused from specific requirements B (Permitted Zones), C (Minimum Lot Size), and D (Setbacks). Homeowners with existing outdoor furnaces are given one year to receive the permit; otherwise they would be in violation.

The Specific Requirements:

- A. **Permitted Fuels:** Only allowing permitted fuels (firewood and untreated lumber).
- B. **Permitted Zones:** Shall be permitted in all zoning districts in the town with the exception of Residential High Density and Senior Citizen Zoned Districts.
- C. **Minimum Lot Size:** Shall be permitted only on lots of two (2) acres or more.
- D. **Setbacks:** Shall be set back not less than fifty (50) feet from the nearest lot line and not less than twenty (20) feet from the foundation of any residential building.
- E. **Spark Arrestors:** All outdoor furnaces shall be equipped with properly functioning spark arrestors.

A permit issued pursuant to this Local Law may be suspended as the Town Building Inspector may determine to be necessary if any of the following conditions occur:

- A. Malodorous air contaminants from the outdoor furnace are detectable outside the property.
- 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.
- 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 conditions 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 Section 7 hereof.

Enforcement; Revocation of Permit

The Code Enforcement Officer, Building Inspector, or Fire Marshal shall enforce this Local Law. They have the authority to enter any parcel of property in the Town of Hamlin to examine and inspect any outdoor furnace to determine where a violation of this chapter exists.

Failure to comply with any of the provisions of this Local Law shall be a violation punishable by a fine of \$_____ for the first offense. Any subsequent offense shall be punishable by a fine of \$_____. In addition, any permit issued shall be revoked upon conviction of a second offense and the subject outdoor furnace shall not be eligible for another permit. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor furnace is located until paid. You will see blank spots for purposes of the Public Hearing. In conference with the Town Attorney, we reviewed the various laws in existence with the town to find consistency with fines. The one that corresponds most closely to the Outdoor Furnace Law is the Uniform Fire Prevention and Building Code and Fire Code Law, which is Chapter 51 of the Code Book, that describes a fine for the first offense of not more than \$200 per day for each day in which such a violation continues. We felt this amount would give the judge plenty of leeway depending upon how frequently the offender might have appeared before the court.

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, or any other federal, state, regional or local agency. Outdoor furnaces, and any other electrical, plumbing or other apparatus or device used in connection with an outdoor furnace, shall

be installed, operated and maintained in conformity with any and all local, State and Federal codes, Local Law, rules and regulations.

This is basically a quick summary of the proposed Local Law to establish Regulations for Outdoor Furnaces.

Supervisor Roach then asked the Town Clerk to provide proof of publication of official notice of the Public Hearing.

Supervisor Roach then opened the hearing for any public testimony, statements, comments and opinions. No one wished to speak. Councilperson Rath asked if existing outdoor furnaces would be exempt from Failure to Obtain a Building Permit fee.

Supervisor Roach stated he would consider passage of the Local Law at the Town Board Meeting. He will specify a fine of \$200 a day as indicated. Presuming the law is passed; he will also add a resolution to include a permit fee of \$35 to the Town Schedule Fee.

APPROVAL TO CLOSE THE PUBLIC HEARING

Resolution #182 Motion was made by Supervisor Roach, seconded by Councilperson Breslawski to close the Public Hearing at 6:40 pm as all business was concluded.

Members polled: Councilperson Breslawski aye, Councilperson Marchetti aye, Councilperson Rath aye, Supervisor Roach aye. Motion carried.

ADJOURNMENT

A motion was made by Councilperson Breslawski seconded by Councilperson Marchetti to adjourn the meeting at 6:40 pm as all business has been concluded.

Members polled: Councilperson Breslawski aye, Councilperson Marchetti, Councilperson Rath aye, Supervisor Roach aye. Motion carried.

Respectfully,

Kathi A. Rickman, RMC/CMC
Hamlin Town Clerk