

## Chapter 81

### FURNACES, OUTDOOR

**[HISTORY: Adopted by the Town Board of the Town of Conklin 4-25-2006 by L.L. No. 2-2006. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Fire prevention and building construction — See Ch. 73.

Zoning — See Ch. 140.

#### § 81-1. Purpose.

Outdoor furnaces are being used in all parts of the Town as residents and businesses move to alternative heating systems. Concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and the 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 or other health and safety hazard to, and is not detrimental to, the residents of the Town.

#### § 81-2. 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.

**OUTDOOR FURNACE** — Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors (whether it is in a shed or other similar enclosed structure) for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat, hot water or other energy for any space. Devices using natural gas, anthracite coal, fuel oil or propane are not included in this definition.

**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.

#### § 81-3. Regulations.

- A. Permit required. No person shall cause, allow or maintain the use of an outdoor furnace on property which he/she owns within the Town of Conklin without first having obtained a permit from the Town Code Enforcement Office. A copy of the manufacturer's specifications must be filed with the Code Enforcement Officer with the application for the permit. All property owners with outdoor furnaces preexisting at the adoption of this chapter, shall have nine months from the effective date thereof to obtain a permit conforming to the regulations stated in Subsection B of this section. Permit fees shall be

established by resolution by the Town Board of the Town of Conklin. If, after a permit has been issued, a new structure for occupancy is constructed on property adjacent or directly opposite the property with the permitted outdoor furnace, and such structure is within 150 feet of the outdoor furnace, the permit holder shall have one year from the date of the certificate of occupancy of the new structure to meet the provisions of § 81-3G Smokestack height, set forth herein.

- B. Existing outdoor furnaces. Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain in its existing location, provided that the owner conforms to the specific requirements of § 81-3C, Permitted fuel, § 81-3G, Smokestack height, and § 81-3H, Emissions.
- C. Permitted fuel. Only firewood, untreated lumber, and wood pellets are permitted to be burned in any outdoor furnace, except that minimal amounts of paper and cardboard may be used as necessary to initiate the burning operation. Burning of any and all other materials, such as rubbish, garbage, paint, furniture, composite shingles, construction debris, waste oil, products containing asphalt, treated, painted or stained wood, railroad ties, utility poles, plywood, composite wood products, plastics, synthetic fabrics, foam, rubber including tires, newspaper, corrugated cardboard (except as set forth above), office paper, and container board, in an outdoor furnace is strictly prohibited.
- D. Zones. Outdoor furnaces shall be permitted only in a zone designated as an A-R Agricultural-Rural, R-12 Residence or R-15 Residence zone with a minimum lot size of two acres or more.
- E. Setbacks. Outdoor furnaces shall be set back a minimum of at least 150 feet from the nearest property line and 150 feet from the nearest public road. Outdoor furnaces shall not be placed in front of any principal structure on the lot.
- F. Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors, or be in conformity with manufacturer's specification for that unit with regard to the release of sparks.
- G. Smokestack height. All outdoor furnaces shall have a smokestack or chimney that extends at least 10 feet above the ground of the furnace, subject to the following specific modifications to said requirement:
  - (1) If located within 150 feet of any residence, or structure used for any occupancy or public purpose, the top of the stack must be at least the height of the eaves line of each such structure, plus an additional two feet, but in no event less than 10 feet from the ground.
  - (2) The stack shall be secured or stabilized in a safe manner.
- H. Emissions. A permit issued pursuant to this chapter may be suspended as the Code Enforcement Officer determines to be necessary to protect the public health, safety and welfare of the residents of the Town of Conklin if any of the following conditions occur:
  - (1) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life, safety or property.

- (2) The emissions from the outdoor furnace cause damage to vegetation or property.
- (3) The emissions from the outdoor furnace are unreasonably malodorous.
- I. Reinstatement of permit. 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 below.
- J. Seasonal use. The outdoor furnace can only be operated from 12:00 midnight on Labor Day until 12:00 midnight on Memorial Day, unless the sole source of fuel for the outdoor furnace during those times is natural gas, anthracite coal, fuel oil, or propane.

**§ 81-4. Penalties for offenses.**

- A. 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 more 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 more than \$1,000 or imprisonment for a period of not more than 30 days, or both, and shall result in the removal of the outdoor furnace by the violator. 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.
- B. In the alternative, the Town may seek injunctive relief in a court of competent jurisdiction to compel compliance with this chapter, together with an award of court costs and reasonable attorneys' fees and disbursements incurred by the Town in enforcing such compliance.

**§ 81-5. Special operating permit.**

- A. The Town Board shall hear and decide requests for a special operating permit only in situations where applicants allege they cannot meet the requirements of § 81-3E, G or J, or in situations where the Town Code Enforcement Officer has determined that there is a legitimate issue as to whether the equipment, device or apparatus constitutes an "outdoor furnace" as defined in this chapter.
- B. In passing upon such applications, the Town Board shall consider all technical evaluations and all relevant factors set forth in other sections of this chapter and:
  - (1) Whether the emissions from outdoor furnace may cause:
    - (a) Lack of enjoyment of life, health, safety or property; or
    - (b) Damage to vegetation or property.
  - (2) The effect of the operation on neighboring property owners.

- (3) The availability of alternative locations on the applicant's property.
  - (4) The expected prevailing wind direction.
  - (5) Whether the request is substantial.
  - (6) Whether the situation is unique.
- C. Upon consideration of the above factors and the purposes of this chapter, the Town Board may attach such reasonable conditions as it deems necessary to further the purposes of this chapter.
- D. The Code Enforcement Officer shall maintain the records of all applications and appeals, including technical information.