

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
OCT 11 2005

MISCELLANEOUS
& STATE RECORDS

(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.

County

City

of CHAMPION

Town

Village

Local Law No. 5 of the year 2005

A local law A Local Law Concerning Outdoor Wood-Burning Furnace

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

County

City

of Town of Champion as follows:

Town

Village

Section 1. Title and Authority. This local law shall be known as the "Town of Champion Outdoor Wood-Burning Furnace Local Law". It is adopted pursuant to the authority of Article 2 and 3 of Municipal Home Rule Law.

Section 2. Purpose. Although outdoor wood-burning 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 local law is intended to ensure that outdoor wood-burning furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of town residents.

Section 3. Definitions. As used in this local law, the following terms shall have the meanings as indicated:

Front Lot Line – The street or road right-of-way line. If a lot adjoins two (2) or more streets or roads, it shall be deemed to have a front lot line respectively on each.

Outdoor Wood-burning Furnace – Any equipment, device or apparatus 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 to a principal residential structure or any other site structure on the residential premises.

Section 4. Permit Required. No person shall cause, allow or maintain the use of an outdoor wood-burning furnace within the Town of Champion without first having obtained a zoning permit from the zoning officer. Application for permit shall be made to the zoning officer on forms provided. Fees collected with regard to these permits shall be set by resolution of the Town Board.

Section 5. Existing Outdoor Wood-burning Furnaces. Any outdoor wood-burning 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 zoning officer within one year of such effective date, provided, however, that upon the effective date of this local law all the provisions hereof, except Section 6.3 shall immediately apply to existing outdoor wood-burning furnaces. If the owner of an existing outdoor wood-burning furnace does not receive a permit within one year of the effective date of this local law, the outdoor furnace shall be removed.

Section 6. Specific Requirements. All outdoor wood-burning furnaces shall comply with the following rules and regulations:

1. **Installation.** All outdoor wood-burning furnaces shall be installed, operated and maintained per the manufacturer's instructions.
2. **Permitted Fuel.** Only firewood, untreated lumber, fossil fuels and corn are permitted to be burned in any outdoor wood-burning furnace. Burning of any and all other materials is prohibited. No outdoor wood-burning furnace shall be utilized as a waste incinerator.
3. **Setbacks.** Outdoor wood-burning furnaces shall follow the minimum setbacks of the applicable zoning district
4. **Chimney Height.** The chimney height of any furnace located 50 feet or less to any residence not served by the furnace shall be at least 2 feet higher than the eave line of the unserved residence; the chimney height of any furnace located more than 50 feet but no more than 100 feet to any residence not served by the furnace shall be at least 75% of the height of the eave line of the unserved residence, plus an additional 2 feet; the chimney height of any furnace located more than 100 feet but no more than 150 feet to any residence not served by the furnace shall be at least 50% of the height of the eave line of that residence, plus an additional 2 feet; the chimney height of any furnace located more than 150 feet but no more than 200 feet to any residence not served by the furnace shall be at least 25% of the height of the eave line of the unserved residence, plus an additional 2 feet. The chimney height of any furnace located more than 200 feet from any residence not served by the furnace shall be a minimum of 8 feet.
5. **Replacements.** If an outdoor wood-burning furnace is replaced or upgraded, a permit shall be required pursuant to Section 4 of this local law and shall comply with all sections of this local law.

Section 7. Appeals. Appeals from any actions, decisions, or rulings of the zoning officer or for a variance from the strict application of the specific requirements in Section 6 of this local law may be made to the RACOG Cooperative Zoning Board of Appeals. Requests for all appeals shall be made in writing to the Zoning Board of Appeals not later than 30 days of the act, decision, or ruling from which relief is sought.

1. **Appeals Fees.** Appeals fees shall be established by Town Board resolution.
2. **Public Hearing.** Within 62 days after receiving the written request, the Zoning Board of Appeals shall hold a public hearing on the appeal, with prior notice published in a newspaper of general circulation in the town at least ten days before the date of the hearing and specifying the date, place, time, and purpose of the hearing.

3. **Decision of Zoning Board of Appeals.** Within 62 days of the final adjournment of a public hearing, the Zoning Board of Appeals shall affirm, modify, or deny the action, decision, or ruling of the zoning officer or correct any omission by him, or approve, approve with conditions, or disapprove the application. The decision of the Zoning Board of Appeals shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Zoning Board of Appeals. As part of any decision, the Zoning Board of Appeals shall direct the zoning officer to issue any appropriate permit in conformity with its ruling and shall state a time by which such permit shall be issued, in conformity with this local law.
4. **Criteria for Variances.** In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - a. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
 - b. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
 - c. whether the requested variance is substantial;
 - d. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
 - e. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the variance.

Section 8. Violations and Penalties. Any person who shall violate any provision of this local law shall be guilty of a violation as defined in Article 10 of the Penal Law and shall upon conviction be subject to a fine of not more than \$250 dollars or to imprisonment for not more than 15 days or both such fine and imprisonment. Each week's continued violation shall constitute a separate and distinct offense.

Section 9. Civil Proceedings. Compliance with this law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this law shall also be subject to a civil penalty of not more than five hundred dollars, to be recovered by the Town of Champion in a civil action and each week's continued violation shall be for this purpose a separate and distinct violation. In the event the Town of Champion is required to take legal action to enforce this local law, the violator will be responsible for any and all necessary costs relative thereto, including attorneys' fees, and such expense shall be charged to the property so affected by including such expense in the next annual tax levy against the property.

Section 10. Severability. The provisions of this local law are severable and the invalidity of a particular provision shall not invalidate any other provision.

Section 11. Effective Date. This law shall be effective upon filing with the Secretary of State.
(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2005 of the ~~(County)~~(City)(Town)(Village) of Champion was duly passed by the Town Board on September 6, 2005, in accordance with the applicable *(Name of Legislative body)* provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 2005, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer)* on _____ 2005, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the ~~(County)~~(City)(Town)(Village) of Champion was duly passed by the _____ on _____, and was ~~(approved)~~~~(not approved)~~ *(Name of Legislative Body)* ~~approved~~ (repassed after disapproval) by the _____ on _____ *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)~~(permissive)~~ referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on November 2, 2005, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 2005, and was (approved)(not approved) (repassed after disapproval) *(Name of Legislative Body)* by the _____ on _____ 2005. *(Elective Chief Executive Officer*)*¹

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2005, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

¹ * Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

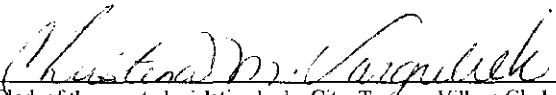
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the Town of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such town voting thereon at the (special)(general) election held on _____ 2005, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body
Christina M. Vargulick

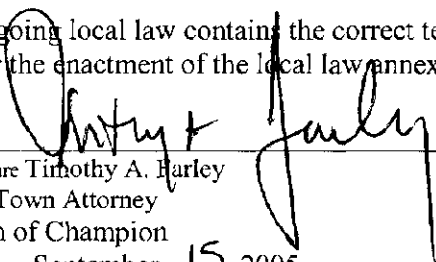
(Seal)

Date: September 12, 2005

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF JEFFERSON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature Timothy A. Harley
Title: Town Attorney
Town of Champion
Date: September 15, 2005