

Local Law Filing

(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 Sackets Harbor
- Town
- Village

Local Law No. 3 of the year 20 08

A local law Banning Outdoor Solid Fuel Burning Furnaces
(Insert Title)

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

- County
 - City of Sackets Harbor
 - Town
 - Village
- as follows:

Section 1. Authority.

This Local Law is adopted pursuant to the authority of Article 2, Section 10 of the New York State Municipal Home Rule Law, and Article 4, Section 4-412 of the New York State Village Law.

Section 2. Purpose.

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. It is generally recognized that the types of fuel used, and the scale, elevation, and duration of burning by outdoor solid fuel burning furnaces, create noxious and hazardous smoke, soot, ash, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. Therefore, with the adoption of this chapter, it is the intention of the Village of Sackets Harbor Village Board of Trustees to establish and impose restrictions upon the construction and operation of outdoor solid fuel burning furnaces within the limits of the Village for the purpose of securing and promoting the public health, comfort, convenience, safety, and welfare of the Village and its inhabitants.

Section 3. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

OUTDOOR SOLID FUEL BURNING FURNACE - An accessory structure, designed and intended, through the burning of wood, coal, agricultural or forestry crops or waste, pellitized cellulose, or other solid fuels for the purpose of heating or providing hot water to the principal structure or any other site, building or structure on the premises.
(continued on following pages)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUL 18 2008
MISCELLANEOUS
& STATE RECORDS

OUTDOOR SOLID FUEL BURNING FURNACES Local Law # 3, 2008, July 8, 2008 (continued)

VIOLATOR or ANY PERSON WHO VIOLATED ANY PROVISION OF THIS CHAPTER -- Any person who owns or occupies the property at the time the outdoor solid fuel burning furnace has been installed and/or operated.

Section 4. Construction and operation prohibited.

The construction and operation of outdoor solid fuel burning furnaces are hereby prohibited within the Village of Sackets Harbor. The Village reserves the right to revisit the ban upon development of new and improved technology in air quality and aesthetic designs.

Section 5. Enforcement.

The Village of Sackets Harbor Code Enforcement Officer, or any other person who may hereafter be designated by resolution of the Village Board, is hereby authorized in the name and on behalf of the Village of Sackets Harbor to undertake and prosecute any proceedings necessary or appropriate to enforce compliance with this chapter.

Section 6. Penalties for offenses.

- A. Any person who shall violate any provision of this chapter shall be guilty of a violation and shall, upon conviction, be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment. 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. 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
- B. Compliance with this chapter 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 chapter shall also be subject to a civil penalty of not more than \$500, to be recovered by the Village of Sackets Harbor in a civil action. 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.
In the event the Village is required to take legal action to enforce this chapter, the violator will be responsible for any and all necessary costs incurred by the Village of Sackets Harbor relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the court, such expense shall be charged to the property so affected by including such expenses in the next annual Village of Sackets Harbor The construction and operation of outdoor solid fuel burning furnaces are hereby prohibited within the Village of Sackets Harbor.
- C. Any person who shall violate any provision of this chapter shall be guilty of a violation and shall, upon conviction, be subject to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both such fine and imprisonment. 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. Each day that a violation occurs shall constitute a separate tax levy against the property. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter.

Section 7. Nonconforming uses; abandoned outdoor solid fuel burning furnaces.

- A. Except as hereinafter provided, the lawful use of any outdoor solid fuel burning furnace existing at the time of the adoption of this chapter may be continued, although such use does not conform with the provisions of this chapter.
- B. No outdoor solid fuel burning furnace existing at the time of the adoption of this chapter shall thereafter be extended or enlarged.
- C. Any existing outdoor solid fuel burning furnace which is abandoned or discontinued for a period of nine consecutive months shall not be permitted to be reestablished as a nonconforming use, and must be immediately removed by the property owner from the subject premises.
If the property owner fails to remove the outdoor solid fuel burning furnace by the end of said nine consecutive month period, the Village of Sackets Harbor Code Enforcement Officer shall:

OUTDOOR SOLID FUEL BURNING FURNACES Local Law # 3, 2008, July 8, 2008 (continued)

- (1) give written notice by certified mail or personal service to the owner of the property upon which the outdoor solid fuel burning furnace is located. Such notice shall provide that said owner shall remove the outdoor solid fuel burning furnace within 15 days of the date the notice is either postmarked or personally served upon the owner.
 - (2) Should the outdoor solid fuel burning furnace not be removed within the time specified, the Village of Sackets Harbor shall take reasonable steps to effect its removal.
 - (3) The costs incurred by the Village to effect said removal (including any attorneys' fees incurred by the Village to effect the removal), plus an amount equal to 50% of said costs of removal, shall be charged to the owner of said premises. Said expense shall be paid by the owner of the property so affected within 30 days from the date said costs are presented to the owner. If said expense is not paid within said thirty-day time frame, then said expense shall be charged to the property so affected by including such expense in the next annual Village of Sackets Harbor tax levy against the property.
- D. No existing outdoor solid fuel burning furnace which has been damaged by any reason to the extent of more than 50% of its assessed value for Village of Sackets Harbor tax purposes shall be repaired or rebuilt.

Section 8. Severability; when effective.

- A. The provisions of this chapter are severable and the invalidity of a particular provision shall not invalidate any other provisions.
- B. This chapter shall take effect immediately upon filing in the office of the New York Secretary of State.

(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. 3 of 20 08 of the (County)(City)(Town)(Village) of Sackets Harbor was duly passed by the Board of Trustees on July 8, 20 08, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(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 _____ 20 _____, 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 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

* 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.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City 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 city voting thereon at the (special)(general) election held on _____ 20 _____, 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 20 _____ 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.

G. Heed Kain

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: _____

7/16/08

(Seal)

(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.

David M. Kain

Signature

Attorney NYS # 2234011

Title

County

City of

Town

Village

Sackett Harbor

Date: _____

July 16, 2008