

*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 underlining to indicate new matter.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
JUL 05 2005

MISCELLANEOUS  
& STATE RECORDS

~~County~~  
~~City~~ of Copenhagen  
~~Town~~  
Village

Local Law No. 1 of the year 2005

A local law Regulating Outdoor Wood-Burning Furnaces within the Village of  
(Insert Title)  
Copenhagen

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

~~County~~  
~~City~~ of Copenhagen as follows:  
~~Town~~  
Village

**Section 1. Title**

This Local Law shall be entitled "A Local Law Regulating Outdoor Wood-Burning Furnaces within the Village of Copenhagen."

**Section 2. Authority**

This Local Law is enacted pursuant to the authority of Articles 2 and 3 of Municipal Home Rule Law of the state of New York.

**Section 3. Findings**

The Village Board has determined that Outdoor Wood-Burning Furnaces, due to the types of fuel used, and the scale and duration of the burning by such furnaces, create noxious and hazardous smoke, soot, fumes, odors and air pollution, and that such emissions can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises. The Village Board also takes notice of the fact that residences in the Village, being in close proximity to each other, require that some conduct, acceptable in the countryside, cannot be permitted within the confines of the Village, and may be a nuisance to neighbors.

#### **Section 4. Purpose**

In order to protect the health, safety and welfare of the citizens and residents of the Village of Copenhagen, and to prevent the deleterious effects associated with the unregulated operation of existing Outdoor Wood-Burning Furnaces and to forestall an increase in such effects the Village Board of Trustees has determined that it is necessary and appropriate to enact this Local Law imposing restrictions upon the installation and operation of Outdoor Wood-Burning Furnaces within the limits of the Village.

#### **Section 5. Definitions**

As used in this law:

1. "Opacity" shall mean the degree of obscuration of light (for example, a window has zero opacity; a wall is 100 percent opaque);
2. an "Outdoor Wood-Burning Furnace" or "Furnace" shall mean an accessory structure, whether attached to or detached from a principal structure, designed and intended to provide large quantities of heated water, through the burning of wood, for the purpose of heating the principal structure, and / or any other structure located on the same premises or lot; and
3. "EPA Method 9" shall mean the method approved by the United States Environmental Protection Agency for determining the opacity of air emissions.

#### **Section 6. Outdoor Wood-Burning Furnaces Prohibited**

The construction, installation or operation of Outdoor Wood-Burning Furnaces, whether as a new or a replacement installation, is hereby prohibited within the Village of Copenhagen.

#### **Section 7. Exemption for Pre-Existing Outdoor Wood-Burning Furnaces**

Any Outdoor Wood-Burning Furnace existing within the Village prior to the effective date of this law may continue to be operated only if it is in full compliance with any applicable state and / or federal regulations and with each and every one of the following restrictions:

1. The Furnace shall be operated only between September 1<sup>st</sup> and May 31<sup>st</sup>.
2. The Furnace shall be equipped with properly functioning spark arrestors equal to or exceeding those specified by its manufacturer.
3. The Furnace shall not emit emissions having a greater than 20% opacity (based on EPA Method 9 as determined by a person certified in its use) during any six minute average period of time.
4. No malodorous air contaminants from the Furnace shall be detectable beyond the boundary of the property on which it is located.

5. The Furnace emissions shall not interfere with the reasonable enjoyment of life or property of the residents of the Village.
6. The Furnace emissions shall not cause damage to vegetation or property.
7. The Furnace emissions shall not be harmful to human or animal health.
8. The replacement of any such Furnace is strictly prohibited.

#### **Section 8. Penalties for Violation of this Local Law**

Any person determined to be violating any provision of this Local Law shall be guilty of a violation as defined in Article 10 of the Penal Law of the state of New York and shall upon conviction be subject to imprisonment for not more than the statutory period set out in Article 80 of the Penal Law of the state of New York for violation (as may be amended from time to time) or to a fine of not more than the statutory amount set out in Article 10 of the Penal Law of the state of New York for violation (as may be amended from time to time) or to both such imprisonment and fine. Each week's continued violation shall constitute a separate and distinct offense.

#### **Section 9. Civil Proceedings for Enforcement of this Local Law**

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 the maximum amount which could be collected pursuant to Section 8 of this Local Law, to be recovered by the Village in a civil action and each week's continued violation shall, for the purpose of this Local Law, be a separate and distinct violation. In the event the Village is required to take legal action to enforce this law, the violator shall be responsible for any and all necessary costs relative thereto, including attorneys' fees. Such costs to be in addition to the civil penalty amount imposed hereunder. All such amounts awarded under this Section may, if they remain uncollected, be charged to the property so affected by including such expense in the next annual tax levy against the property.

#### **Section 10. Authority to Enforce this Local Law**

The Village Board of the Village of Copenhagen or its Code Enforcement Officer or any Police Officer of the state of New York or its subordinate jurisdictions are hereby authorized in the name and on behalf of the Village to undertake and prosecute any proceedings necessary to appropriate to enforce compliance with this law.

#### **Section 11. Severability**

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

#### **Section 12. Effective Date**

This law shall be effective upon filing with the Secretary of State.

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2005 of the ~~(County)(City)(Town)(Village)~~ of Copenhagen Village Board of Trustees was duly passed by the Village Board of Trustees on June 30 2005, in accordance with the applicable 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 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 \_\_\_\_\_ (Elective Chief Executive Officer\*) and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, 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 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 \_\_\_\_\_ (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20\_\_\_\_. 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 \_\_\_\_\_ (Elective Chief Executive Officer\*) 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 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.)~~

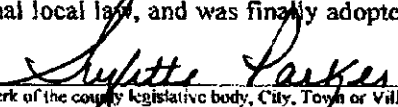
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 \_\_\_\_\_ 1\_\_\_\_, above.

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

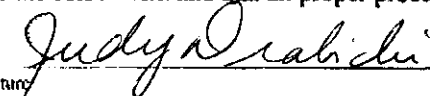
(Seal)

Date: June 30, 2005

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

STATE OF NEW YORK  
COUNTY OF Lewis

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

Village Attorney  
Title

~~County~~  
~~City~~ of Copenhagen  
~~Town~~  
Village

Date: June 30, 2005