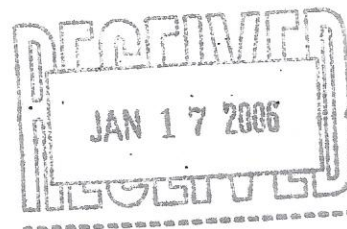




STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001



GEORGE E. PATAKI
GOVERNOR

January 12, 2006

Village of Dolgeville
41 North Main Street
Dolgeville, NY 13329

RE: Village of Dolgeville, Local Law 4, 2005, filed on 12/22/2005

To Whom It May Concern:

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,
Linda Lasch
Principal Clerk
State Records & Law Bureau
(518) 474-2755

LL:cb

OUTDOOR WOOD-BURNING FURNACE LAW

Section 1. Authority

This law is adopted pursuant to the authority of Article II, Section 10(1)(ii)(a) of the Municipal Home Rule Law and Article IV, Section 4-412 of the Village Law.

Section 2. Findings

Despite the providing of an economic alternative to conventional heating systems, it is recognized by the Board of Trustees of the Village of Dolgeville - based upon complaints received from local residents and findings of the Attorney General regarding the increase in pollution caused by short chimney smoke release and extensive fine particulate emissions - that the scale, duration and necessary manner of burning associated with 'outdoor wood burning furnaces' creates noxious and hazardous smoke, soot, fumes, odors and air pollution which is potentially detrimental to the health, comfort, convenience, safety and welfare of local inhabitants, as well as the public at large and local environment, and further deprives neighboring residents of the enjoyment of their property or premises.

Section 3. Definitions

As used in this law, the following terms are described as follows:

A. **'Outdoor Wood-Burning Furnace'** shall mean any freestanding combustion unit accessory structure, or appliance, designed for a location ordinarily outside the home and which transfers or provides heat, via liquid or other means, by the burning of wood or solid waste, to locations including, but not limited to, homes, garages, swimming pools, hot tubs and Jacuzzis.

B. **'Person'** shall mean **property owner**, builder, installer or user whether a human being or legal entity.

C. **'Property Owner'** shall mean either the record title holder, lessee, or land contract buyer of an applicable premises, or all of such parties.

Section 4. Purpose

It is the intention of the Board of Trustees of the Village of Dolgeville by the adoption of this law, as hereafter applicable within municipal boundaries, to prohibit the construction and operation of **outdoor wood-burning furnaces** and to establish and impose restrictions upon 'outdoor wood-burning furnaces' existing at the time of this enactment.

Section 5. Prohibition

The construction and operation of outdoor wood-burning furnaces, and the continuing operation of existing outdoor wood-burning furnaces neither in compliance with manufacturer's guidelines nor the non-conforming uses criteria hereafter designated, are prohibited within the Village of Dolgeville thereby subjecting any builder, installer, **property owner** or user of such a furnace to the penalties and remedies described herein.

Section 6. Non-conforming Uses

Outdoor wood-burning furnaces existing at the time of adoption of this local law shall be deemed continuing non-conforming uses subject to the following conditions, restrictions and requirements:

- A. No such furnaces shall hereafter be extended or modified.
- B. Any such furnace which is abandoned or discontinued for a continuous period of seven (7) months shall not be re-established as a non-conforming use and must be immediately removed by the property owner or user from the subject premises.
- C. No such furnaces which have been damaged by natural causes to the extent of more than seventy five (75%) of their assessed values for local tax purposes shall be repaired or rebuilt for use in the Village of Dolgeville.
- D. To insure appropriate and continuing compliance with manufacturer's guidelines and all applicable New York State codes, all such furnaces, as may be directed by the enforcement officer, are subject to random testing and installation verification at the sole expense of the property owner or user.
- E. All property owners or users of such furnaces, at the cost of fifty (\$50.00) dollars per year, or such greater amount as may hereafter be periodically determined by the Board of Trustees, must secure an annual permit from the enforcement officer and file with him, or her, the most recent operational and maintenance guidelines that may have been furnished by the manufacturer.
- F. No such furnaces shall be operated on or after June 1 through, and including, August 31 of any year.
- G. No such furnaces shall be used to burn any substance except natural and properly seasoned wood.
- H. The smokestack of such furnaces shall be higher than any building located within fifty (50) feet, inclusive of any building situated on the subject premises.
- I. Notwithstanding compliance with all non-conforming use conditions, restrictions and requirements herein, no property owners or users of such furnaces, in regard to the ultimate effects of its operation, shall be considered exempt from an alleged violation of other laws which may be applicable.

Section 7. Non-Criminal Proceedings and Penalties

Any *person* who violates any provision of this law shall, in a court of competent jurisdiction, be guilty of a Violation as defined in Article 10 of the Penal Law and shall upon conviction, in addition to applicable surcharge, be subject to a fine of not more than two hundred fifty (\$250.00) dollars, or to imprisonment for not more than fifteen (15) days, or to both

such fine and imprisonment. Each week's continued violation shall constitute a separate and distinct offense.

Nothing herein contained shall prevent a court of competent jurisdiction from imposing a sentence of unconditional discharge or conditional discharge, or a disposition of adjournment in contemplation of dismissal, in accordance with, and as all defined in, the Penal Law and Criminal Procedure Law.

Section 8. Civil Proceedings and Penalties

Notwithstanding a pending, or the commencement of a, non-criminal proceeding herein, compliance with this law may also be compelled, and violations restrained, by order or 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 (\$500.00) dollars, to be recovered by the Village in a civil action and each week's continued violation shall be for this purpose a separate and distinct violation.

In the event the Village 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 reasonable attorney's 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 9. Authority of the Village

The Village Board of the Village of Dolgeville, or its enforcement officer, is hereby authorized in the name and in behalf of the Village to undertake and prosecute any proceedings necessary or appropriate to enforce compliance with this law.

Section 10. Enforcement Officer

The Code Enforcement Officer of the Village of Dolgeville, as enforcement officer, shall have the authority to enforce the various provisions of this local law and to issue an appearance ticket, as defined in the Criminal Procedure Law, for alleged non-criminal violations thereof.

Section 11. Severability

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

Section 12. Conflicting Provisions of Law

The provisions of this local law shall supersede any provisions of other local law to the contrary.

Section 13. Effective Date

This law shall take effect immediately upon filing in the office of the Secretary of State and shall thereafter be enforced upon any approval that may be necessary by the State Codes Council.