

## Chapter 78

### OUTDOOR WOOD-BURNING FURNACES

- § 78-1. Title, statutory authority.
- § 78-2. Purpose.
- § 78-3. Definitions.
- § 78-4. Permit required.
- § 78-5. Existing outdoor wood-burning furnaces.
- § 78-6. Specific requirements.
- § 78-7. Appeals.
- § 78-8. Penalties for offenses.
- § 78-9. Public nuisance.
- § 78-10. Civil proceedings.
- § 78-11. Severability.

[HISTORY: Adopted by the Town Board of the Town of Watertown 4-13-2006 by L.L. No. 1-2006; amended in its entirety 8-13-2015 by L.L. No. 4-2015. Subsequent amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning — See Ch. 107.

#### § 78-1. Title, statutory authority.

This chapter shall be known as the "Town of Watertown Outdoor Wood-Burning Furnace Law." It is adopted pursuant to the authority of Articles 2 and 3 of the Municipal Home Rule Law.

OUTDOOR WOOD-BURNING  
FURNACES

§ 78-4

§ 78-6

**§ 78-4. Permit required.**

No person shall cause, allow or maintain the use of an outdoor wood-burning furnace within the Town of Watertown without first having obtained a certification of compliance from the Department of Environmental Conservation pursuant to 6 NYCRR Part 247 and a permit from the Zoning Officer. Application for a 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. No permit for outdoor wood-burning furnaces shall be issued within the OWB Overlay Zone as mapped on the Town of Watertown Zoning Map. Outdoor wood-burning furnaces shall be prohibited to locate in the OWB Overlay Zone.

**§ 78-5. Existing outdoor wood-burning furnaces.**

Any outdoor wood-burning furnace in existence on the effective date of this chapter 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 chapter all the provisions hereof, except § 78-6C 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 chapter, the outdoor furnace shall be removed.

**§ 78-6. Specific requirements.**

All outdoor wood-burning furnaces shall comply with the following rules and regulations:

- A. Installation. All outdoor wood-burning furnaces shall be installed, operated and maintained per the manufacturer's instructions and 6 NYCRR Part 247.
- B. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor wood-burning furnace. Burning of any and all prohibited fuels as listed in

6 NYCRR Part 247.3 shall be prohibited. No outdoor wood-burning furnace shall be utilized as a waste incinerator.

- C. Setbacks. Outdoor wood-burning furnaces shall have the following minimum setbacks:
- (1) From the front lot line: 100 feet.
  - (2) From side and rear lot lines: 100 feet.
  - (3) From residential structures on adjacent properties: 150 feet.
- D. Months of operation. Outdoor wood-burning furnaces shall be operated only between September 15 and June 1.
- E. Chimney height. The chimney height is to be extended upward a minimum of 18 feet above ground level or two feet above the height of any structure within 150 feet of the outdoor wood-burning furnace.
- F. Replacements. If an outdoor wood-burning furnace is replaced or upgraded, a permit shall be required pursuant to § 78-4 of this chapter and shall comply with all sections of this chapter.
- G. More restrictive regulations. In the case of a more restrictive federal, state or county regulation, that regulation shall supersede any specific requirement listed in this chapter.

#### **§ 78-7. 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 § 78-6 of this chapter may be made to the Town of Watertown 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.

- A. Appeals fees. Appeals fees shall be established by Town Board resolution.
- B. 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 10 days before the date of the hearing and specifying the date, place, time, and purpose of the hearing.
- C. 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 chapter.
- D. Criteria for variances. Appeals shall be for area variance only. Use variances shall not be considered. 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:
  - (1) 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;

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
- (3) Whether the requested variance is substantial;
- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
- (5) 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.

#### **§ 78-8. Penalties for offenses.**

Any person who shall violate any provision of this chapter 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 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.

#### **§ 78-9. Public nuisance.**

The use of outdoor wood-burning furnaces in the Town of Watertown in any manner contrary to this chapter or in a location where the same is not permitted within the Town of Watertown is deemed to be a public nuisance.

#### **§ 78-10. Civil proceedings.**

In addition to the relief provided in § 78-8 hereof, the Town may seek compliance with this chapter in an application to a court of competent jurisdiction for injunctive relief. In addition, any person who violates any provision of this chapter shall also be subject to a civil penalty of not more than \$500, which may be recovered by the Town of Watertown in a civil action in a

court of competent jurisdiction. Each week's continued violation of this chapter shall, for the purposes of this provision, constitute a separate and distinct violation. In the event the Town of Watertown is required to take legal action to enforce this chapter, 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.

**§ 78-11. Severability.**

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

