

ZONING INFORMATION FOR OUTDOOR FURNACES §50-21(16)

(16) **Outdoor furnaces.** [Added 7-12-2006 by L.L. No. 1-2006]

(a) Although **outdoor boilers/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. The special use permit required by this subsection is intended to ensure that **outdoor boilers/furnaces** are located, installed and operated in a manner that does not create a nuisance and is not detrimental to the health, safety or general welfare of the residents of the Town.

(b) Definitions. As used in this subsection, the following terms shall have the meanings indicated:

FIREWOOD – Trunks and branches of trees, but not including leaves, needles, vines or brush smaller than three inches in diameter.

OUTDOOR BOILER and OUTDOOR FURNACE (OBs) – Any equipment, device or apparatus, or any part thereof, which is designed to be installed, affixed or situated **outdoors** for the primary purpose of combustion of firewood, untreated lumber or other combustible material recommended by the device manufacturer to produce heat or energy used as a component of a heating system providing heat for any interior space.

UNTREATED LUMBER – Dry wood which has been milled and dried but which has not been treated or combined with a petroleum product, chemical preservative, glue, adhesive, stain, paint or other substance.

(c) Except as provided in Subsection **D(16)(d)**, no person shall cause, allow or maintain the use of an OB within the Town of Neversink without having first obtained a special use permit from the Planning Board.

(d) Any OB in existence on May 4, 2006, shall be permitted to remain, provided that the owner registers the device with the Code Enforcement Officer within 60 days of the effective date of this subsection; provided, however, that upon the effective date of this subsection, the provisions of this Subsection **D(16)(d)** and Subsection **D(16)(g)** and **(h)** shall immediately apply to existing OBs. If the owner of an existing OB does not register the device with the Code Enforcement Officer within 60 days of the effective date of this subsection, the OB shall be removed. Upon registration of an OB that was in existence on May 4, 2006, the Code Enforcement Officer shall issue the owner with an authorization to operate the existing OB. "Existing" or "in existence" means that the OB was in operation as of May 4, 2006.

(e) Location requirements.

- [1] OBs shall be permitted only on lots of three acres or more.
- [2] OBs shall be set back not less than 100 feet from the nearest lot line.
- [3] OBs shall not be installed or operated within 200 feet of a residence, other than the residence being heated by the OB and accessory structures located on the same lot.
- [4] OBs shall not be installed or operated within 500 feet from the occupied building of a hospital, school, day-care center or nursing home or from the boundary of a municipal park.

(f) Installation requirements.

- [1] OBs shall be installed and operated in accordance with manufacturer's specifications and operating instructions, a copy of which shall be provided to the Planning Board by the owner upon application for a special use permit or to the Code Enforcement Officer upon registration of an existing OB.
- [2] OBs shall be installed on a concrete slab extending at least two feet in front of any load door and at least one-foot wider than the outside of the OB on all other sides.
- [3] All OBs shall be equipped with a properly functioning spark arrestor.

(g) Operational requirements. OBs shall be operated in accordance with the following standards and conditions:

- [1] Only dry, seasoned wood, untreated lumber or other combustible material recommended by the device manufacturer is permitted to be burned in an OB. Burning of any and all other materials in an OB is prohibited.
- [2] OBs located in RC, RR-2 and RR-3 Zoning Districts, on lots of five acres or more, and more than 100 feet from the nearest property line, may be operated year-round. All other OBs shall be operated only between October 1 and May 15. **[Amended 8-12-2009 by L.L. No. 3-2009]**

(h) Suspended permits or authorizations.

- [1] A special permit issued pursuant to this subsection or authorization to operate an existing OB registered with the Code Enforcement Officer may be suspended as the Code Enforcement Officer may determine to be

necessary to protect the health, safety or welfare of the residents of the Town of Neversink if any of the following conditions occur:

[a] Emissions from the OB exhibit greater than twenty-percent opacity (six-minute average) except for one continuous six-minute period per hour of not more than twenty-seven-percent opacity, which shall be determined as provided in 6 NYCRR 227-1.3(b);

[b] Malodorous air contaminants from the OB are detectable outside the property of the person on whose land the OB is located;

[c] The emissions from the OB interfere with the reasonable enjoyment of life or property;

[d] The emissions from the OB cause damage to vegetation or property; or

[e] The emissions from the OB are or may be harmful to human or animal health.

[2] A suspended permit or authorization to operate may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit or authorization to operate shall be considered a violation of this subsection subject to the penalties provided in § [50-31C](#) hereof.

(i) Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, the New York State Department of Environmental Conservation or any federal, state, regional or local agency. OBs, and any electrical, plumbing or other apparatus or device used in connection with an OB, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this subsection and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

(j) Notwithstanding the provisions of § [50-22B\(2\)](#), the Planning Board may accept a sketch plan map for review for an OB, provided the Town's Code Enforcement Officer provides the Planning Board with a letter indicating that the sketch plan map is generally accurate. Additionally, where an OB is proposed to be located on a lot of six acres or more and is set back not less than 200 feet from the nearest lot line, the Planning Board may, by resolution, dispense with the public hearing requirements otherwise required by § [50-22C](#) of this chapter. **[Added 1-23-2008 by L.L. No. 1-2008]**