

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
162 WASHINGTON AVENUE, ALBANY, NY 12231

(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~~

~~CHY~~

of

MARSHALL

Town

~~Village~~

Local Law No. 1 of the year 2008.

A local law Regulating Outdoor Wood Boilers/Furnaces  
(Insert Title)

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

~~COUNTY~~

~~CHY~~

of

MARSHALL

Town

~~Village~~

as follows:

**\*\*See Attached 3 Sheets\*\***

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

(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. 1 of 2008 of the ~~(County)(City)(Town)(Village)~~ of Marshall ~~Town Board~~ on 12/9/2008, was duly passed by the Town Board, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. 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 \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(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 19\_\_\_\_ 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 \_\_\_\_\_ 19\_\_\_\_, 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 19\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_\_\_, 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.

  
\_\_\_\_\_  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

Nancy Matteson, Town Clerk  
Date: December , 2008

(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 ONEIDA

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

Town Attorney

\_\_\_\_\_  
Title

~~XXXXX~~  
~~XXX~~ of Marshall  
Town  
~~Village~~

Date: December 10, 2008

### **Section 1 Purpose**

It is the intention of the Town of Marshall Planning Board by adoption of this law to establish and impose restrictions upon the construction, installation, and operation of outdoor wood boilers/furnace within the limits of the Town of Marshall for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Town and its inhabitants.

### **Section 2 Definition**

"Outdoor wood boiler/furnace" means any equipment, device, apparatus, or any part thereof, which is installed, affixed, situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space. This Law is not meant to regulate non-solid fuel burning boilers.

### **Section 3 Permit Required**

No person shall cause, allow or maintain the use of an outdoor wood boiler/furnace within the Town of Marshall without first having obtained a permit from the Town of Marshall Zoning Enforcement Officer (ZEO). Application for permit shall be made to same. Fee for the permit shall be set at \$40.00 or as the Town Board may set by Resolution from time to time.

### **Section 4 Existing outdoor wood boiler/furnace**

Any outdoor wood-burning boiler/furnace in existence on the effective date of this Law shall be permitted to remain provided the property owner applies for and receives a permit from the Town of Marshall within (6) six months of such effective date of this Local Law. All provisions hereof, except paragraphs B, C, & D of Section 5, shall immediately apply to existing outdoor wood boiler/furnace. All the provisions of the Local Law shall continue to apply to existing outdoor wood boiler/furnace which receives a permit. If the owner of an existing outdoor wood boiler/furnace does not receive a permit within (6) six months of the effective date of this Local Law, the outdoor wood boiler/furnace shall be removed by owner within 30 days. "Existing" or in "existence" means that the outdoor wood boiler is in place and operational on the site.

## Section 5 Specific Requirements

- A. Permit fuel - only firewood and untreated lumber are permitted to be burned in an outdoor wood boiler/furnace. Burning of any and all other materials in an outdoor wood boiler is prohibited.
- B. Minimum lot size - outdoor wood boiler/furnace shall be permitted only on lots of 80,000 square feet or more.
- C. Permitted Zones - outdoor wood boiler/furnace shall be permitted only in an Agricultural Zone (A-1)
- D. Setbacks - outdoor wood boiler/furnace shall only be located in the rear yard, within a minimum setback of ten feet (10) from the primary residence, as well as seventy five (75) foot setback from adjacent residences.
- E. Spark arrestors - all installed units shall be equipped with an operable spark arrestor.
- F. The chimney on the outdoor wood boiler/furnace shall conform to the manufacturer's specifications and any and all local, state, and federal codes, laws, rules and regulations.

## Section 6 Variance

A variance may be granted as defined in the Town of Marshall Zoning Ordinance and in section 267-a of Town Law.

## Section 7 Suspension of permit

A permit issued pursuant to this Local Law may be suspended at the Town's Zoning Enforcement Officer's discretion after a determination that such suspension may be necessary to protect the health, safety, and welfare of the residents of the Town of Marshall.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this Local Law subject to the penalties in Section 8 hereof.

## Section 8 Enforcement

Failure to comply with any provision of this Local Law shall be a violation and, upon conviction thereof, shall pay a fine of \$75.00. If the violation continues, each ten (10) day period will be deemed a separate offense. Upon conviction of

a second offense thereof, shall pay a fine of \$250.00. The owner of the premises upon which prohibited acts occur shall be liable for violations of this Local Law. This local law shall be enforced by the Zoning Enforcement Officer.

#### **Section 9 Effect of other regulations**

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulation promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation and any other federal, state, regional or local agency. Outdoor wood boiler/furnace, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood boiler/furnace, 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. All prior local laws, resolutions and regulations inconsistent with the provisions of this Local Law are hereby repealed.

#### **Section 10 Severability**

The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

#### **Section 11 Effective date**

This Local Law shall take effect upon filing in the Office of the New York State Secretary of State or as otherwise provided by law.

NOTICE OF LOCAL MUNICIPAL BODY FINAL ACTION

Zoning and Subdivision Referrals

Pursuant to Sections 239-l, -m, or -n of Article 12B, General Municipal Law

Date of Final Action: 12/9/2008

Reference: Referral Number: OC 239-10-015  
Applicant: Town of Marshall, Town Board  
Location: Townwide, Marshall (T)

- Approval
- Approval with conditions (attached conditions)
- Disapproval

Copy of resolution attached Yes  No

If not, substance of resolution listed below  
(use reverse side if additional space is required):

Sections of 239-l, 239-m and 239-n of the General Municipal Law of the State of New York require that said municipal body shall not act contrary to any disapproval or recommendation herein, except by a vote of a majority plus one of the total voting power of said municipal body and after the adoption of a resolution fully setting forth the reasons for such contrary action; and,

within thirty (30) days after final action by said municipal body, such body shall file a report of such final action to this agency.

Nelson C. Blum  
Signature of Referring Officer

Supervisor  
Title

Please return within thirty (30) days of final action to:

Oneida County Department of Planning  
at Union Station  
321 Main Street  
Utica, New York 13501

TOWN BOARD MEETING  
DECEMBER 9, 2008 PAGE 6

Morris Sturdevant

1. He questioned the difference between changing the law and a variance. The Town Board will change the law. The ZBA will handle the variances.

TOWN BOARD MEETING  
DECEMBER 9, 2008 PAGE 5

**OLD BUSINESS**

- A. Frank Pumilla violation: Everything has been taken care of.
- B. Shared Municipal Agreement: Gary Ford gave report.
- C. Appointment: Michele Vasquez has shown an interest in planning/zoning secretary job.
- D. Outdoor Wood Boiler Law: The Town Board discussed results of hearing with Planning Board.

RESOLUTION #135

**LOCAL LAW #1 2008**

On a motion by Councilman Ford, seconded by Councilwoman McConnell the following resolution was

ADOPTED    Ayes 4                    Boersma, Eastman, Ford, McConnell  
                  Nays 0

Resolved that Local Law #1 2008 of the Town of Marshall is an unclassified action and will not have a sufficient adverse impact on the environment.

RESOLUTION #136

**OUTDOOR WOOD BOILERS/FURNACES**

On a motion by Councilman Ford, seconded by Councilwoman McConnell the following resolution was

ADOPTED    Ayes 3                    Eastman, Ford, McConnell  
                  Nays 1                    Boersma

Resolved to accept Local Law #1, 2008 of the Town of Marshall as set forth in the draft of November 7, 2008, relating to Outdoor Wood Boilers/ Furnaces.

- E. Flag: It's in the mail.
- F. Barton Grant: Doors are in but not installed.
- G. Sidewalks: Sue has received a lot of information.

**NEW BUSINESS**

- A. Advertise for 2009 vacancies: Ad has been put in the Waterville Times.
- B. Town Board will hold interviews and organization meeting on January 6, 2009