

**SAMPLE ORDINANCE – UPDATED: September 2011**

The original sample ordinance that was available on this website was drafted in January 2007 based upon information that was made available with the release of the EPA OWHH (Outdoor Wood-fired Hydronic Heater) Phase 1 Program which ended on March 31, 2011.

Central Boiler has modified the sample ordinance to include information on Phase 2 Models (0.32 lbs/million BTU of heat output).

These modifications were made based upon State regulations/laws that have been passed and modifications were also based upon information that has been made available through the EPA HH (Hydronic Heater) Phase 2 Program. The modifications were also based upon information that has been made available through the EPA Phase 2 Program List of Cleaner Hydronic Heaters.

See the updated Sample Best Practice Local Ordinance on the following pages.

Ordinance 2011 – 1

AN ORDINANCE TO AMEND the Code of the (town, city, village, borough) in \_\_\_\_\_ County, in (STATE) by adding a new chapter, to be entitled Outdoor Wood Furnaces, which chapter provides for the same.

Be it enacted by the (town, city, village, borough –Council or Board) of the (town, city, village, borough) as follows:

The Code of the (town, city, village, borough) is hereby amended by adding thereto a new chapter, to be Chapter \_\_\_\_, Outdoor Wood Furnace, to read as follows:

**OUTDOOR WOOD FURNACES (Referred to as: OUTDOOR WOOD BOILERS OR OUTDOOR WOOD-FIRED HYDRONIC HEATERS OR HYDRONIC HEATERS)**

## **§ -1 Definitions**

## **§ -2 Regulations for Outdoor Wood Furnaces**

## **§ -3 Substantive Requirements**

§ -4 Appeals/Variances

§ -5 Violations and penalties

§ -6 Civil Proceedings

§ -7 Severability

§ -8 Effective Date

## **§ -1 Definitions**

- A. Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is primarily hand-loaded for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler, Outdoor Wood-fired Hydronic Heater or Hydronic Heater.
- B. Outdoor Wood-Pellet Furnace: An outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, , or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, or other biomass pellets.
- C. Chimney: Flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.

- D. EPA HH Phase 2 Program – EPA HH (Hydronic Heater) Phase 2 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.
- E. EPA HH Phase 2 Program Qualified Model – A Hydronic Heater that has been EPA HH Phase 2 Program qualified. The model has met the EPA HH Phase 2 emission level and is labeled accordingly.
- F. Existing Outdoor Wood Furnace: An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this local law.
- G. New Outdoor Wood Furnace: An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this local law.
- H. Natural Wood: Wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

## § -2 Regulations for Outdoor Wood Furnaces

- A. No person shall, from the effective date of this local law, construct, install, establish, operate or maintain an Outdoor Wood Furnace other than in compliance with the applicable sections of this local law.
- B. No person shall, from the effective date of this local law operate an existing Outdoor Wood Furnace unless such operation conforms with the manufacturer’s instructions regarding such operation and the requirements of this local law regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Sections 3.A and 3.B of this local law.
- C. All new Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer’s instructions and the requirements of this local law. In the event of a conflict, the requirements of this local law shall apply unless the manufacturer’s instructions are stricter, in which case the manufacturer’s instructions shall apply.
  - (1) Replacement of an existing outdoor wood furnace:** A new Outdoor Wood Furnace that is EPA HH Phase 2 Program Qualified (0.32 lbs/MMBtu heat output) shall be allowed to be installed to replace a non-qualified outdoor wood furnace in the same location as long as the furnace is installed to meet the chimney height requirements in Section H. and proper fuel use requirements in Sections 3.A and 3.B of this local law are met by the owner.
- D. The owner of any new Outdoor Wood Furnace shall produce the manufacturer’s owner’s manual or installation instructions to the (appropriate department) to review prior to installation.
- E. All new Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.

- F. If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local authorities, creating a verifiable nuisance, as defined by local or state law, the following steps may be taken by the owner and the (appropriate department) having jurisdiction:
- (1). Modifications made to the unit to eliminate the nuisance such as extending the chimney, or relocating the Outdoor Wood Furnace or both.
  - (2). Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.

## § -3 Substantive Requirements

Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

- A. Fuel burned in any new or existing Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas or propane backup.
- B. The following fuels are strictly prohibited in new and existing Outdoor Wood Furnaces:
- (1). Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
  - (2). Rubbish or garbage, including but not limited to food wastes, food packaging, food wraps
  - (3). Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - (4). Rubber including tires or other synthetic rubber-like products.
  - (5). Newspaper, cardboard, or any paper with ink or dye products.
  - (6). Any other items not specifically allowed by the manufacturer or this provision.
- C. Setbacks for any new Outdoor Wood Furnace model not EPA Hydronic Heater Program Qualified:
- (1). The Outdoor Wood Furnace shall be located at least 50 feet from the property line.
  - (2). The Outdoor Wood Furnace shall be located at least 100 feet from any residence that is not served by the Outdoor Wood Furnace.
  - (3). The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.
- D. Chimney heights for any outdoor wood furnace model that is not EPA Hydronic Heater Program Qualified:
- (1). The chimney of any new Outdoor Wood Furnace shall extend at least 2 feet above the peak of any residence not served by the Outdoor Wood Furnace located within 300 feet of such Outdoor Wood Furnace.
- E. Setbacks for EPA HH Phase 2 Program qualified models (**0.32 lbs/million Btu heat output**):

- (1). The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.
- F. Chimney heights for EPA HH Phase 2 Program qualified models:
- (1). If located within 300 feet to any residence not served by the furnace, it is recommended that the chimney be at least 2 feet higher than the peak of the residence served.
  - (2). If located within 100 feet to any residence not served by the furnace, the chimney must be 2 feet higher than the peak of the residence served or not served, whichever is higher.
- I. Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, , or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufacturers' recommendations.

#### **§ -4 Appeals**

Appeals from any actions, decisions, or rulings of the (appropriate department) or for a variance from the strict application of the specific requirements in Section 2 or 3 of this local law may be made to the (town, city, village, borough) (appropriate Board of Appeals). Requests for all appeals shall be made in writing to the (appropriate Board of Appeals) not later than \_\_ days of the act, decision, or ruling from which relief is sought.

- A. **Appeals Fees:** Appeals fees shall be established by (appropriate department) resolution.
- B. **Public Hearing:** Within 60 days after receiving the written request, the (appropriate Board of Appeals) shall hold a public hearing on the appeal, with prior notice published in a newspaper of general circulation in the (town, city, village, borough) at least 60 days before the date of the hearing and specifying the date, place, time, and purpose of the hearing.
- C. **Decision of (appropriate Board of Appeals).** Within 60 days of the final adjournment of a public hearing, the (appropriate Board of Appeals) shall affirm, modify, or deny the action, decision, or ruling of the (appropriate department) or correct any omission by the (inspector), or approve, approve with conditions, or disapprove the application. The decision of the (appropriate 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 (appropriate Board of Appeals). As part of any decision, the (appropriate Board of Appeals) shall direct the 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 local law.
- D. **Criteria for Variances.** In making its determination, the (appropriate Board of Appeals) shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment 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 alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the variance.

**§ -5 Violations and penalties.**

Any person who shall violate any provision of this local law shall be guilty of a violation as defined in \_\_\_\_\_ and shall upon conviction be subject to a fine of not more than \$200 dollars. Each week's continued violation shall constitute a separate and distinct offense.

**§ -6 Civil Proceedings.**

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 \$200 dollars, to be recovered by the (village/town/city/borough) 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/town/city/borough) is required to take legal action to enforce this local law, the violator may 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.

**§ -7 Severability.**

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

**§ -8 Effective date.**

This law shall be effective upon filing with the\_\_\_\_\_.