

TOWN OF HAMPDEN
MASSACHUSETTS

TOWN HOUSE
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BOARD OF HEALTH
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REGULATIONS GOVERNING THE INSTALLATION AND OPERATION OF OUTDOOR WOOD-FIRED BOILERS AND FURNACES

Adopted Time: 6:45 PM Date: 10/1/07

Findings:

Whereas:

The Hampden Board of Health does hereby find that:

Accordingly the BOH finds and declares that the purposes of this regulation is to protect the public health and welfare by assuring the optimal siting and operation of these devices and the education of owner- operators in techniques to minimize the production of noxious wood smoke.

1. Authority:

By the authority granted to the Board of Health, pursuant to an in accordance with, Massachusetts General Law Chapter 111, Section 31C the Hampden Board of Health hereby enacts the following regulations.

2. Applicability:

These regulations shall apply to each Outdoor Wood-fired Boiler /Furnace installed on or after October 1, 2007 in addition, any existing Outdoor Wood-fired Boiler /Furnace installed and/or in use prior to the effective date of these regulations may not operate until they have come into compliance with these regulations. The applicant must also receive an electrical and plumbing permit from the Building Department.

3. Definitions:

3.1 Outdoor Wood-fired Boiler /Furnace: an accessory structure or appliance designed to be located outside space ordinarily used for residential, business or industrial purposes which is designed to provide heat, via liquid or other means, through the burning of wood, for heating spaces other than where such structure or appliance is located, or for heating domestic, swimming pool, hot tub or Jacuzzi water. "Outdoor Wood-fired Boiler /Furnace" does not include a fire pit, wood-fired barbeque or chimney. This definition does not include industrial sized furnaces/ boiler plants regulated and permitted by the MA Department of Environmental Protection and which utilized Best Available Control Technology (BACT) for emission control.

3.2 Outdoor Wood-fired Boiler /Furnace: a wood fired boiler surrounded by a water jacket, in an insulated freestanding shed with a smoke stack and used to heat water that is carried by underground pipes to provide heat to a building. This definition does not include industrial sized furnaces/ boiler plants regulated and permitted by the MA Department of Environmental Protection and which utilized Best Available Control Technology (BACT) for emission control.

3.3 Wood fuel: all wood intended to be used as fuel, including but not limited to trees, cordwood, logs, lumber, sawdust, and wood from manufacturing processes (butt offs, shavings, turnings, sander dust) wood pellets, slab, clean and untreated pellets. This definition DOES NOT include materials chemically treated with any preservatives such as paint, oil base product or pressure treated, trash or garbage, paper products or demolition material.

3.4 Season Wood: wood that has been cut for a year and dried at least 6 months, or by other means, to achieve a moisture content (MC) less than 20% by weight.

3.5 Improper Operations- Operating an Outdoor Wood-fired Boiler /Furnace: in such a manner contrary to the manufacturers' operating instructions and/or by burning such material that can cause a public nuisance and/or health hazard.

4. **Regulations:**

4.1 A permit is required from the Board of Health to use an Outdoor Wood-fired Boiler /Furnace in the Town of Hampden.

4.2 Any person desiring to install an Outdoor Wood-fired Boiler /Furnace on or after October 1, 2007 shall apply for a permit from the Board of Health and the Building Department. The Board of Health permit process shall include submission of a written application form and payment of the permit fee established by the Board of Health. The application must be accompanied by a site plan prepared by a Professional Land Surveyor or Professional Engineer indicating the proposed Outdoor Wood-fired Boiler /Furnace location, property identification by tax map and parcel, property lines, acreage and zone designation of the parcel to be served by the Outdoor Wood-fired Boiler /Furnace, separation distances between the Outdoor Wood-fired Boiler /Furnace and all buildings and outbuildings in the site of the Outdoor Wood-fired Boiler /Furnace and all neighboring houses within 300 feet, as well as elevations of proposed chimney height, and peaks of all buildings within 300 feet of the proposed Outdoor Wood-fired Boiler /Furnace, together with identification of all roads adjacent to the site, and the distance from the Outdoor Wood-fired Boiler /Furnace to wooded areas, brush and flammable structures. Because the provision regarding chimney heights is intended to limit the envelopment of down wind residences by the smoke plume from an Outdoor Wood-fired Boiler /Furnace the comparative heights must be referenced to mean sea level (MSL) or by an identified, permanent bench mark established on the property.

4.3 The installation of the Outdoor Wood-fired Boiler /Furnace shall not be less than 250 feet from a building not serviced by the Outdoor Wood-fired Boiler /Furnace.

The installation of the Outdoor Wood-fired Boiler /Furnace shall not be less than 250 feet from any building being occupied on a regular basis.

4.3a. The installation of the Outdoor Wood-fired Boiler /Furnace shall not be less than 50 feet from the house being serviced.

4.4 After the effective date of these regulations, no such person shall use, install, allow the installation, or acquire through property transfer, an Outdoor Wood-fired Boiler /Furnace (or replace an existing Outdoor Wood-fired Boiler /Furnace that has become inoperable) in the Town of Hampden, for the installation or substantial modification of an Outdoor Wood-fired Boiler /Furnace unless in full accordance with all of the provisions contained herein:

4.4a. The height of the chimney of the outdoor wood-fired boiler/furnace shall exceed the height of the roof peaks by 2 feet of buildings located within 250 feet of the Outdoor Wood-fired Boiler /Furnace, which buildings are not served by the Outdoor Wood-fired Boiler /Furnace, provided further that in no event shall the height of the chimney be less than 16 feet, nor shall the chimney height exceed 35 feet from the ground level.

4.4b. The owner and the operator of the Outdoor Wood-fired Boiler /Furnace has signed an acknowledgement that Outdoor Wood-fired Boiler /Furnace, even if operated in accordance with these regulations, may still create nuisance conditions or violate existing smoke visible regulations and therefore may be subject to private nuisance action and or local or state enforcement action.

4.5 Outdoor Wood-fired Boiler /Furnace shall be operated only between October 15 and April 30

4.6 Only dry (moisture content of less than 20%) seasoned, untreated wood fuel as defined above may be burned in the Outdoor Wood-fired Boiler /Furnace. Under no circumstances may any starter chemical such as gasoline be used in the Outdoor Wood-fired Boiler /Furnace.

4.7 No person shall operate an Outdoor Wood-fired Boiler /Furnace in any manner, which causes a nuisance by interfering with the use and enjoyment of neighboring properties. The Outdoor Wood-fired Boiler /Furnace shall be operated in a manner to prevent or minimize the occurrence of visible emissions, which cause or contribute to a condition of air pollution as defined in regulation 310 CMR 7.01 and 7.06.

5. Enforcement

5.1 The Town of Hampden Board of Health, and its agents, are authorized to enforce this regulation including enforcement through non-criminal deposition pursuant to Section 5.3.

5.2 Permit Suspension or Revocation:

The Board of Health may suspend or revoke any permit issued pursuant to these regulations for any violation of these regulations, or any other applicable General Law, regulation or by-law. Such revocation or suspension may take place after a hearing by the Board of Health of which the permit holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.

5.3 Non Criminal Disposition:

A non-criminal disposition process as provided in G.L. c. 40, §21 D and the Town's non-criminal disposition by-law may penalize whoever violates any provision of this regulation.

For the first offense by a written warning;

For the second offense by a fine of \$100.00

For the third offense by a fine of \$200.00

For a subsequent offense by a \$300.00 per violation:

Each day or portion therefore shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

5.4 **Other**

Whoever violates any provision of this regulation may be penalized by indictment or on complaint brought in court. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be one thousand dollars (\$1,000.00), each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. Any person aggrieved by the failure of the owner and/or operator of an outdoor wood-fired boiler/furnace to comply with any provision of these regulations may apply for injunctive relief to enforce the provisions of these regulations in any court of competent jurisdiction.

5.5 The Board of Health may enforce these Regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

6. **Appeal**

An owner may appeal to the Board of Health an order to correct a violation of these regulations provided that a written request for a hearing is filed with the Board of Health within seven (7) days of receipt of the violation notice.

7. **Severability**

If any part, paragraph, provision or section of this regulation is determined by any Court to be invalid, against public policy, or unconstitutional, said findings shall not affect the legality of the remaining part(s), paragraph(s), provision(s), or section(s) of this regulation which shall continue in full force and effect.

8. **Jurisdiction**

The Town of Hampden can supersede the State regulations as long as the Town regulations are more stringent.

By vote of the Board of Health/Selectmen on this date October 1, 2007


Chairperson





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Date of Public Hearing: 10/1/07

Date of Publication: September 17 and 24, 2007

Date of DEP Approval per C.111,S.31C: November 13, 2007