

TOWNSHIP OF WANTAGE

**AN ORDINANCE AMENDING CHAPTER 13 OF THE COMPREHENSIVE LAND USE
ORDINANCE OF THE TOWNSHIP OF WANTAGE TO PERMIT AND REGULATE
OUTDOOR WOOD BURNING FURNACES**

ORDINANCE #2011-16

WHEREAS, the purpose of this Ordinance is to promote the safe, effective and efficient use of outdoor wood furnaces to provide an alternative heating source for buildings while maintaining and minimizing the potential for air pollution and associated impacts to residents of Wantage Township, and

WHEREAS, the governing body of the Township of Wantage has determined the following:

1. Outdoor wood furnaces, including outdoor wood-fired hydronic heaters, typically burn wood to heat water that is piped underground to a nearby structure resulting in heat for a building, swimming pool, hot water for residential use and other similar uses.
2. With smoldering fires and short smokestacks outdoor wood furnaces can create heavy smoke that is released close to the ground, where it can become a nuisance to residents of the surrounding area.
3. Smoke from wood fires can be dangerous to breathe because it contains particles which can affect both the lungs and the heart. In addition, breathing wood smoke can aggravate existing health conditions such as asthma.

WHEREAS, the Governing Body finds it is necessary to provide regulations to standardize the use and location of outdoor wood furnaces in order to promote public health, safety and welfare of the residents of the Township of Wantage;

NOW THEREFORE, BE IT ORDAINED by the Governing Body for the Township of Wantage, Sussex County, New Jersey that Chapter XIII, The Land Use Ordinance of the Township of Wantage, is hereby amended as follows:

Section 1 Definitions. Section 13-2 is amended by the addition of the following definitions:

"Chimney" shall mean flue or flues that carry exhaust from an outdoor wood furnace firebox or burn chamber and release it into the air above the furnace.

"Environmental Protection Agency (EPA) Outdoor Hydronic Heater (OHH) Phase 2 Program" shall mean the 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 (BTU) output and is labeled accordingly.

"EPA OHH Phase 2 Program Qualified Model" shall mean outdoor hydronic heater that has been EPA OHH Phase 2 Program qualified. The model has met the EPA OHH Phase 2 emission level and is labeled accordingly.

"EPA OWHH Phase 1 Program" shall mean EPA Outdoor Wood-Fired Hydronic Heater (OWHH) Phase 1 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.60 pounds per million British Thermal Units input and is labeled accordingly.

"EPA OWHH Phase 1 Program Qualified Model" shall mean an outdoor wood-fired hydronic heater that has been EPA OWHH Phase 1 Program qualified. The model has met the EPA OWHH Phase 1 emission level and is labeled accordingly.

"Existing Outdoor Wood Furnace" shall mean an outdoor wood furnace that was purchased and installed prior to the effective date of this section and has been issued the certificate of occupancy (CO). The furnaces shall at a minimum meet EPA and NJDEP air emission requirements.

"Natural Wood" shall mean 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.

"New Outdoor Wood Furnace" shall mean an outdoor wood furnace that is first installed, established or constructed after the effective date of this section. All new furnaces shall meet or be more limiting in air emissions than the EPA OHH Phase 2 Program requirements and shall be in compliance with NJDEP air emission requirements.

"Outdoor Wood Furnace" shall mean 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 outdoor hydronic heater.

"Outdoor Wood-Pellet Furnace" shall mean an outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, corn, or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, corn or other biomass pellets.

"Permit to Operate an Outdoor Wood Furnace" shall mean all persons, or authorized representatives, planning to install an outdoor wood furnace shall obtain a permit from the building department and submit required documentation in accordance with this section. This permit shall be in addition to any other permits, such as plumbing, electrical, and other sub code permits and fees, as required by the building department. A permit shall be obtained prior to operation, as defined by burning of fuel, connection of electric, and connection of plumbing. A permit shall also be obtained prior to operating an outdoor wood furnace following a transfer or sale of property at which the furnace is located.

"Location Plan for Outdoor Wood Burning Furnace" shall mean a plan prepared by the owner of the property, installer or other qualified professional showing the proposed location of the outdoor wood furnace in relation to other structures on the property and structures on adjacent properties. The most recent survey for the property should be used and indicate all structures on the owner's property. The site plan shall indicate the location of the furnace and height of the chimney. The plan shall indicate the distance from the outdoor wood furnace to all structures on the subject property and all structures on adjacent properties or those within 500 feet of the outdoor wood furnace. The roof heights of the structures on the subject property and those on adjacent properties shall also be provided. Changes in elevation of thirty feet or higher within two hundred (200) feet of the outdoor wood furnace, such as ridgelines, hilltops, and tree lines, shall be indicated on the plan.

Section 2 Outdoor Wood Furnace Regulations. Section 13-14.6 shall be added as follows:

Section 13-14.6 Outdoor Wood Furnaces

1. General Regulations for Outdoor Wood Furnaces

- a. No person shall, from the effective date of this section, construct, install, establish, operate or maintain an outdoor wood furnace other than in compliance with the applicable subsections of this section.
- b. No person shall, from the effective date of this section operate an existing outdoor wood furnace unless such operation conforms with the manufacturer's instructions regarding such operation and maintenance, and the requirements of this section regarding fuels that may be burned in an outdoor wood furnace as set forth in subsections 2,f and 2.h.

- 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 section. In the event of a conflict, the requirements of this section shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- d. The owner of any new outdoor wood furnace shall obtain a permit to operate an outdoor wood furnace and submit the following documents:
 - 1. The manufacturer's owner's manual or installation instructions to the Building Department prior to installation.
 - 2. Provide a location plan.
 - 3. A signed affidavit in a form provided by the Township of Wantage stating that the new outdoor wood furnace is being installed by an authorized installer to the specifications stated for the unit being utilized and acknowledging the Township, County and State regulations for operation of the unit and potential for fines if operation does not meet Township, County and State regulations.
- e. All new outdoor wood furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/eSA, ANSI or other applicable safety standards and meet emission limits of EPA OHH Phase 2 Program.
- f. Nuisance. If an existing outdoor wood furnace is, through the course of a proper investigation by local or state authorities, creating a verifiable nuisance, as defined by ordinance or law, the owner shall be required to take the following steps at the direction of the building department or code enforcement officer of Wantage Township:
 - 1. Modifications made to the unit to eliminate the nuisance such as extending the chimney or relocating the outdoor wood furnace or both, as specified in this ordinance.
 - 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. Demonstrate that the outdoor wood furnace is installed in compliance with manufacturer's instructions.

- g.* The sale or transfer of any property with an existing outdoor wood furnace shall be required to obtain a permit to operate as defined in subsection 1.d. of this section. The furnace unit shall be removed or rendered inoperable until an inspection of the furnace is conducted and operation of the furnace in accordance with manufacturer instructions is verified.

2. Lot Size, Setbacks, Operation, and Chimney Height. Outdoor wood furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:
 - a. The minimum lot size for a new outdoor wood furnace is ten (10) acres.
 - b. The minimum setbacks for a new outdoor wood furnace are 500 feet from any structure not located on the subject lot or adjacent property building envelope, whichever is greater, and a minimum of 300 feet from any property line.
 - c. No outdoor wood furnace shall be located within eight hundred (800) feet of the property lines of a school, daycare, medical facility, park or public building.
 - d. The location of any new outdoor wood furnace shall not be located in front of the primary residence. For corner lots, this limitation shall apply to both residential structure sides facing a roadway.
 - e. 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. Fuel burned in any new or existing outdoor wood furnace shall be only natural untreated wood, wood pellets, com products, biomass pellets or other listed fuels specifically permitted by the New Jersey Department of Environmental Protection.
 - g. Use of outdoor wood furnaces is prohibited between April 15th and October 15th.
 - h. The following fuels are prohibited in any new and/or 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.

i. Chimney Heights for Any New Outdoor Wood Furnace Model

1. The chimney of any new outdoor wood furnace shall extend at least two (2) feet above the peak of any residence not served by the outdoor wood furnace located within five hundred (SOD) feet of such outdoor wood furnace.
2. If located more than five hundred (SOD) feet from any residence not served by furnace, the stack height shall be in accordance with manufacturer's instructions but in no case be less than five (5) feet above the peak roof line of the furnace unit.

j. Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufactures' recommendations.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provisions) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

Section 4. Repealer. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

Section 5. Public Notice. The Municipal Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the County Planning Board and to all other entities thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon the adoption of this ordinance, after public hearing thereon, the Municipal Clerk is further directed to publish notice of the passage thereof and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 6. Effective Date. This ordinance shall take effect after publication and passage according to law.

William DeBoer, Mayor

ATTEST:

James R. Doherty, Administrator/Clerk

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Mayor and Township Committee of the Township of Wantage, County of Sussex, New Jersey, held on November 10, 2011, and will be considered for final passage after public hearing at a regular meeting of the Mayor and Township Committee to be held on December 8, 2011, at 7:00 p.m. in the Municipal Building, 888 Route 23 South, New Jersey. During the preceding week, copies of the ordinance will be made available at the Clerk's office in the Municipal Building to members of the general public.

James R. Doherty, Administrator/Clerk