

Chapter 218: OUTDOOR WOOD Fired Furnaces (OWFF)

[HISTORY: Adopted by the Board of Health of the Town of Littleton March 10, 2009.
Amendments noted where applicable.]

§ 218-1. Purpose and authority.

- A. Purpose. Whereas the burning of any material creates combustion by-products, including smoke, odors, fumes and particulates that may have a deleterious effect on human health; and whereas the burning of unsuitable materials exacerbate this problem; and whereas the improper operation and design of outdoor wood furnaces further exacerbate this problem; and whereas burning unsuitable materials in an outdoor wood furnace can cause unhealthy combustion byproducts the Littleton Board of Health hereby adopts these regulations intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Town of Littleton due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.
- B. Authority. These regulations are adopted by the Littleton Board of Health pursuant to MGL C. 111, § 31C.

§ 218-2. Applicability.

- A. Applicability. This regulation applies to all outdoor wood burning within the Town of Littleton for the purpose of domestic or commercial heating purposes.

§ 218-3. Severability.

Should any portion of this regulation be declared unconstitutional, or invalid or unenforceable by a court of competent jurisdiction, the other provisions of these regulations shall remain in full force and effect.

§ 218-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CLEAN WOOD FUEL — Natural wood which has not been painted, varnished or coated with a similar material, has not been treated with preservatives and does not contain resins or glues as in plywood or other composite wood products. Products manufactured specifically for use in stoves and fireplaces such as wood pellets and manufactured logs are considered clean wood fuel, provided they are used in compliance with the manufacturer's requirements.

FIRE CHIEF — The Chief of the Town of Littleton Fire Department, may appoint a delegate to act on his behalf.

EPA OWHH PHASE II PROGRAM — The EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase II Program administered by the United States Environmental Protection Agency.

EPA OWHH PHASE II PROGRAM QUALIFIED MODEL — An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase II Program qualified. The model has met the EPA OWHH Phase II emission level and has the proper qualifying label and hangtag.

INCINERATOR — An apparatus for burning waste.

OPEN BURNING — Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

OUTDOOR BURNING — Open burning or burning in an outdoor wood-fired furnace.

OUTDOOR WOOD-FIRED FURNACE — Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or 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 or water source. An outdoor wood furnace may also be referred to as an outdoor wood boiler or outdoor wood-fired hydronic heater.

REFUSE — Any waste material except clean wood as defined above.

§ 218-5. General prohibition on open burning, outdoor burning and refuse burning.

Open burning, outdoor burning and refuse burning are prohibited in the Town of Littleton unless the burning or activity is specifically permitted by the Fire Chief, the Department of Environmental Protection or this regulation.

§ 218-6. Materials that may not be burned.

No materials, other than clean wood fuel, may be burned within an outdoor wood-fired furnace.

§ 218-7. (Reserved)

§ 218-8. Outdoor wood-fired furnaces.

An outdoor wood-fired furnace may be installed and used in the Town of Littleton only in accordance with the following provisions:

- A. The owner of the outdoor wood-fired furnace shall obtain a permit from the Board of Health prior to installation. Owners of outdoor wood furnaces installed prior to these regulations are exempt from the provisions of this regulation except as detailed in § 218-9D. All owners are required to apply for a permit within 60 days of the passage of these regulations or cease operations. The Board will act upon an application for permits for existing units within 30 days of receipt of a completed application. The Board will act upon an application for a new unit within 30 days and hold a hearing for new units within 30 days of submittal of a complete application.
- B. Permits shall be issued in accordance with § 218-9 of these regulations.
- C. The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in § 218-6 of this regulation.
- D. The outdoor wood-fired furnace shall be located at least 300 feet from the nearest habitable space which is not on the same property as the outdoor wood-fired furnace.
- E. A residential outdoor wood-fired furnace shall be located at least 100 feet from the nearest roadway, driveway or right-of-way which is not on the same property as the outdoor wood-fired furnace.
- F. The outdoor wood-fired furnace shall have a chimney that extends at least two feet higher than the peak of the residence served. The Board of Health may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.
- G. New outdoor wood-fired furnaces must meet or exceed the EPA OWHH Phase II program

requirements as provided in the definitions above.

- H. No outdoor wood-fired furnace shall cause, suffer, allow, or permit the emission of smoke from any outdoor wood-fired furnace which has a shade, density, or appearance equal to or greater than 20% opacity at any time.
- I. Any OWFF shall be a minimum of 50 feet from any side and rear property lines.

§ 218-9. Permits.

- A. The application for a permit for an existing outdoor wood-fired furnace shall be made on a form provided by the Littleton Board of Health and will include a suitable sketch of the OWFF for location on the property. An application for a new OWFF is to include a suitable sketch to include the requirements of Subsection B and must include a certified list of abutters from the Board of Assessors to include abutters and their direct abutters. Abutter notification of the public hearing must be by certified mail, return receipt. The applicant shall provide proof of notification before the hearing starts.
- B. Plans for the location and installation of the outdoor wood-fired furnace shall include depiction of:
 - (1) The legal boundaries of the lot to be served.
 - (2) The location of all dwelling(s) and building(s) existing and proposed on the lot to be served by the outdoor wood-fired furnace and identification of those to be served by the furnace. The distances from each building or structure shall be included on the plan.
 - (3) The locations of all known easements and rights-of-way on the lot to be served.
 - (4) The location of all components of the outdoor wood-fired furnace unit, including underground electric lines, fluid lines or ductwork.
 - (5) The proposed wood storage location.
 - (6) The proposed wood-fired furnace's stack height.
 - (7) The location of all roads, passageways and rights-of way within 100 feet of the proposed wood-fired outdoor furnace.
 - (8) The location of all dwelling(s) and building(s) existing within 500 feet of the proposed outdoor wood-fired furnace.
- C. Variances. The Board of Health may vary the application of any provision of these regulations when, in its opinion, the enforcement thereof would be manifest unjust, provided that the decision of the Board of Health shall not conflict with the spirit of these regulations or any other applicable statute, code or regulation; and provided further, such variances may be granted only after notice is given by the applicant to all affected owners of all dwellings within 400 feet and the owners of all parcels of land within 400 feet at least 14 days before such a hearing is held. Such notice shall be made by certified mail, return receipt requested; said return receipts shall serve as proof of such notice. Any variance granted by the Board of Health shall be in writing and shall not be in effect unless it is filed by the owner of the lot to be served by the outdoor wood-fired furnace in the registry of deeds for the county or appropriate district thereof, in which the dwelling is located. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the Board of Health.
- D. Owners of OWFFs, in existence prior to the adoption of these regulations, shall apply for a permit so as to notify the Board of Health of the location of the OWFF. OWFF's which must be

replaced or modified shall be required to meet all current regulations. Upon property transfer, all OWFF's thereon must meet current Board of Health regulations.

- E. Permits to operate outdoor wood-fired furnaces may be suspended, amended or revoked for cause by the Board of Health after a hearing is held. Nothing in these regulations shall be held to limit the powers of the Board of Health under their nuisance powers, or the authority of the Fire Chief. In cases where the revocation takes place, the OWFF must be rendered inoperable or removed within 90 days.

§ 218-10. Violations and penalties.

Whoever violates these regulations shall be punished, for the first offense, by a fine of not less than \$100 nor more than \$500; and, for a subsequent offense, by a fine of not less than \$500 nor more than \$1,000. For the purpose of this section, each day or part thereof of violation of such an order, rule or regulation, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense.

§ 218-12. Effective date.

These regulations were voted and approved by a vote at the Board of Health meeting on March 10, 2009 and shall take effect upon approval by the Department of Environmental Protection.

THE LITTLETON BOARD OF HEALTH March 10, 2009

Ted P. Doucette, Chair _____

Peter Yapp, Vice-Chair _____

Joseph Presti, Esq., Clerk _____

Peter M. Cassinari _____

Gino Frattallone _____