

CITY OF HIGHLAND HEIGHTS, KENTUCKY

ORDINANCE NO. 17-2009

**AN ORDINANCE REGULATING THE
USE OF OUTDOOR WOOD FURNACES,
OUTDOOR WOOD BOILERS, OR
OUTDOOR WOOD/FIRED HYDRONIC
HEATERS OR OTHER SIMILAR WOOD
BURNING HEATING DEVICES.**

WHEREAS, outdoor wood furnaces or other similar woodburning heating devices is becoming increasingly prevalent throughout the United States, and;

WHEREAS, the use of such items can become a nuisance and have a deleterious effect on people, property values, and neighborhoods.

BE IT ORDAINED BY THE CITY OF HIGHLAND HEIGHTS, KENTUCKY the following regulations and restrictions pertaining to outdoor wood furnaces, outdoor wood boilers, outdoor wood/fired hydronic heaters or other similar devices.

Section I

Definitions: A.) Outdoor wood furnace: any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors of the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system provided for any interior space or water source. An outdoor wood furnace maybe also referred to as an outdoor wood boiler or outdoor wood fired hydronic heaters.

B.) Chimney. Flue or Flues that carries off exhaust from an outdoor wood furnace firebox or burn chamber.

C.) EPA OWHH Phase 1 program-EPA OWHH (outdoor wood fired hydronic heater program) Phase 1 program administered by the United States environmental protection agency.

D.) EPA OWHH Phase 1 program qualified model- 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 has the proper qualifying label and hang tag.

E.) Existing outdoor wood furnace: an outdoor wood furnace that was purchased and installed prior to the effective date of this ordinance.

F.) 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 of glue as in plywood or other composite wood products.

G.) New outdoor wood furnace: an outdoor wood furnace was first installed, established or constructed after the effective date of this ordinance.

Section II

Regulations for Outdoor Furnaces

A.) No person shall, from the effective date of this ordinance, construct, install, establish, operate or maintain an outdoor wood furnace other than in compliance with the applicable sections of this Ordinance.

B.) No person shall, from the effective date of this ordinance operate an outdoor wood furnace unless such operation conforms with the manufacturer's instructions regarding such operation and the requirements of this ordinance regarding fuels that may be burned in an outdoor furnace as set forth in Sections III A and III B of this ordinance and chimney height as set for in Section III D and III F of this Ordinance and whatever regulations required by the State and Federal Environmental Protection Agencies or other state and/or federal regulations.

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 ordinance. In the event of a conflict, the requirements of this ordinance shall apply unless the manufacturer's instructions are stricter, in which case the manufactures instructions shall apply.

D.) The owner of any outdoor wood furnace shall produce the manufacturer's owners manual or installation instructions to the city's code enforcement officer, zoning administrator, police officer, or any other city official designated to enforce this ordinance by the Mayor, to review prior to installation.

E.) All new outdoor wood furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CCAA/CSA,ANSI or other applicable safety standards.

F.) If an existing outdoor wood furnace is, through the course of a proper investigation by the city, creating a verifiable nuisance, as defined by this ordinance, or any other ordinance defining nuisance within the city or any state law definition of a nuisance, the following steps may be taken by the city of Highland Heights:

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 insure that the outdoor wood furnace will not be a nuisance.

Section III

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 only be natural untreated wood, wood pellets, corn products, biomass pellets or other listed fuel 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 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 waste, food packaging, food wraps.

3.) Any plastic materials including but not limited to nylon, PVC, ABS polystyrene or urethane foam, and synthetic fabric, plastic films and plastic containers.

4.) Rubber including tires, and 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 these provisions.

C.) Set backs for any new outdoor wood furnace:

1.) The outdoor wood furnace shall be located at least 25 feet from the property line.

2.) The outdoor wood furnace shall be located on the property and in compliance with the manufacturer's recommendations and/or testing or listing requirements for clearance to combustible materials.

3.) The outdoor wood furnace shall be located at least 100 feet from any residence that is not served by the outdoor wood furnace.

D.) Chimney heights for new and existing outdoor wood furnaces.

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.

2.) If there is an existing outdoor wood furnace already installed and there is new construction of a residence not served by the outdoor wood furnace within 300 feet of such outdoor wood furnace then the owner of such outdoor wood furnace shall conform to the stack height requirements of this regulation within thirty (30) days of the date such construction is complete or upon written notice from the city of Highland Heights whichever is sooner.

Section IV

Penalties

Any person who shall violate any provision of this ordinance shall be guilty of a class B misdemeanor and shall upon conviction be subject to a fine of not more than \$250.00. Each week's continued violation shall constitute a separate and distinctive offense.

Section V

Compliance with this law may be compelled by the city either through a criminal prosecution or a civil violation at the option of the city. If the city elects to enforce a particular ordinance civilly then any person who it is determined by a court of competent jurisdiction to have violated this ordinance shall be subject to a civil penalty or not more than \$5,000.00 and each week's continued

violation shall be considered a separate and distinct violation. In the event the city is required to take legal action to enforce this ordinance, the violator shall be responsible for any and all necessary cost relevant thereto, including but not limited to attorney fees and such expenses charged to the property so affected. These fees once awarded shall be attached to the property both as a property lien and added to the property owners annual property tax levy.

Section VI

If any provisions of this ordinance are determined to be invalid for any other reason said invalidation shall not effect any other provisions of this Ordinance.

Section VII


That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer and recorded. Same shall be in effect at the earliest time provided by law.

First reading this 3rd day of November, 2009.

Passed on 2nd reading this 17th day of November, 2009.


MAYOR GREGORY V. MEYERS

ATTEST:


JEAN A. RAUF
CITY CLERK/TREASURER
Ord09.17

PUBLISH CCR: 11-26-2009