

CHAPTER XIX
SOLID FUEL-FIRED OUTDOOR HEATING DEVICES

19.01 DEFINITIONS:

(1) Solid fuel-fired outdoor heating device means any equipment, device 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.

(2) Stacks or chimneys means any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating devices, especially that part of such structures extending above a roof.

(3) Conditional use means it requires a public hearing by the Town Board for the permitted use of the device.

19.02 REGULATIONS FOR SOLID FUEL-FIRED OUTDOOR HEATING DEVICES:

(1) No solid fuel-fired outdoor heating devices shall be operated in the Town without first obtaining a conditional use permit.

(a) No conditional use permit will be granted to a property owner if, at the time the application for a conditional use permit is submitted, the residence is subject to a subdivision covenant which prohibits the installation and operation of a solid fuel-fired outdoor heating device.

(b) No conditional use permit shall be granted unless the applicant provides a copy of the manufacturer's instruction and the regulations for the use of said solid fuel-fired outdoor heating device.

(c) All applications for a conditional use permit shall contain a copy of all subdivision covenants in existence at the time the application for a conditional use permit is submitted.

(2) All solid fuel-fired outdoor heating devices shall meet the emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.

(3) All solid fuel-fired outdoor heating devices shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter than the regulations promulgated hereunder, in which case the manufacturer's instructions shall apply.

(4) Fuel:

- (a) Fuel for a solid fuel-fired outdoor heating device shall only be natural untreated wood, wood, and corn pellets specifically permitted by the manufacturer.
- (b) The following fuels are strictly prohibited:
 - i. Burning of processed wood products and other non-wood products;
 - ii. Petroleum in any form;
 - iii. Garbage;
 - iv. Painted wood or treated wood;
 - v. Rubber
 - vi. Any other items not specifically allowed by the manufacturer or this provision.

(5) Fuel Device Setbacks:

- (a) Seventy-five (75) feet from the nearest side or rear property line;
- (b) One Hundred (100) feet from any road;
- (c) Twenty-five (25) feet from any structure.

(6) Chimney Heights:

- (a) The chimney height for any solid fuel-fired outdoor heating device shall be 2 feet above the highest eave line of any neighboring residence within 13 5 feet.
- (b) All chimney pipes shall be supported to withstand winds up to 90 miles per hour.

(7) No solid fuel-fired outdoor heating device shall be used when the outdoor temperature is above 50 degrees Fahrenheit.

(8) Subdivision covenants regarding solid fuel-fired outdoor heating devices may be more restrictive than this ordinance but not less restrictive.

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(8) Subdivision covenants regarding solid fuel-fire heating devices may be more restrictive than this ordinance but not less restrictive.

19.03 PERMITS:

(1) No person shall maintain or use a solid fuel-fired outdoor heating device without first having obtained a conditional use permit from the Town Board of the Town of Osborn on the forms prescribed for said use.

(2) No conditional use permit shall be granted until the applicant has made payment of the permit fee as set by resolution of the Town Board.

19.04 APPLICATION OF PUBLIC NUISANCE ORDINANCE.

(1) All solid fuel-fired outdoor heating devices whether existing prior to this Ordinance or after the passage of this Ordinance shall be subject to the Town of Osborn Public Nuisance Ordinance as set forth in Chapter X of the Town of Osborn Code of Ordinances.

(2) Any solid fuel-fired outdoor heating device that is not installed, operated or maintained in accordance with the manufacturer's instructions shall constitute a public nuisance under Chapter 10.02 of the Town of Osborn Code of Ordinances.

(3) All outdoor wood burning units or solid fuel-fired outdoor heating devices which emits dense smoke, noxious fumes, gas and soot or cinders in unreasonable quantities, permits smoke to filter into adjoining residences and reduces visibility on public roads may be declared a public nuisance.

19.05 NON-CONFORMING SOLID FUEL-FIRED OUTDOOR HEATING DEVICE:

(1) The Town Building Inspector shall prepare and maintain a list of all solid fuel-fired heating devices in existence prior to the adoption of this Ordinance.

(2) The Town Clerk shall notify, by certified mail, each property owner on the non-conforming list prepared by the Town Building Inspector, which notice shall require within 30 days of receipt of said notice said property owner to provide the Town Board with a copy of the manufacturer's instructions and regulations for said non-conforming solid fuel-fired outdoor heating device.

(3) Failure to provide the Town Board with a copy of the manufacturer's instructions and regulations as set forth in 19.05(2) within the time required shall result in said property being removed from the non-conforming list and the property owner shall not be permitted to operate

said solid fuel-fired outdoor heating device until the property owner obtains a conditional use permit.

(4) All solid fuel-fired outdoor heating devices on the non-conforming list shall be operated and maintained in strict conformance to the manufacturer's instructions and regulations. Failure to conform to the manufacturer's instructions and regulations shall result in said property being removed from the non-conforming list and the property owner shall not be permitted to operate said solid fuel-fired outdoor heating device until the property owner obtains a conditional use permit.

19.06 PENALTY

Any person who constructs, erects, or fails to remove, replace or modify any outdoor solid fuel-fired outdoor heating device that does not meet the requirements of this ordinance shall forfeit \$25.00 per day for each day the non-complying unit remains on the premises.

19.07 VARIANCE

Where the Town finds that extraordinary hardship will occur from the enforcement of this local ordinance, upon application to the Town Board, said Town Board may vary the regulations contained herein to afford substantial justice, provided that such variation will not have the effect of nullifying the intent and purpose of this local ordinance.

19.08 SEVERABILITY

If any provisions of this local ordinance are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this local ordinance shall remain in effect.

SECTION II: This Ordinance shall take effect upon passage by the Town Board and publication.