

(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-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.