

BOARD OF HEALTH

May 14, 2008

A REGULATION BY THE BOARD OF HEALTH, LANESBOROUGH, MASSACHUSETTS FOR THE USE OF OUTDOOR WOOD BURNING FURNACES, AS FOLLOWS:

1. Title and Authority – This regulation shall be known as the Town of Lanesborough Outdoor Furnace / Boiler Regulation, pursuant to the authority granted under Massachusetts General Laws, Chapter 111, Section 31C.

2. Legislative Intent – Although outdoor furnaces / boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety, health and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This regulation is intended to ensure that outdoor furnaces / boilers are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

3. Definitions – For the purposes of this section, “outdoor wood-burning furnace/boiler” means an accessory structure or appliance designed to be located outside space ordinarily used for residential, business or industrial purposes which is designed to provide heat, via liquid or other means, through the burning of wood, for heating spaces other than where such structure or appliance is located, or for heating domestic, swimming pool, hot tub or Jacuzzi water. “Outdoor wood-burning furnace/boiler” does not include a fire pit, wood-fired barbecue or chiminea.

“Untreated Lumber” means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

“Firewood” means trunks and branches of trees and bushes but does not include leaves, needles, vines or brush smaller than three inches (3”) in diameter.

4. Permit Required – No person shall cause, allow or maintain the use of an Outdoor Furnace / Boiler within the Town of Lanesborough without first having obtained a permit from the Board of Health. Application for permit shall be made to the Board of Health on the forms provided.

5. Existing Outdoor Furnaces / Boilers – Any Outdoor Furnace /Boiler in existence on the effective date of this Regulation shall be permitted to remain provided that the owner applies for and receives a permit from the Board of Health within six months (6 mo.) of such effective date; provided, however, that upon the effective date of this regulation all the provisions hereof except paragraph 6 (B), shall immediately apply to existing Outdoor Furnaces. All of the provisions of this Regulation shall continue to apply to existing Outdoor Furnaces which receive permits except paragraph 6 (B) . The fee for the permit shall be \$50.00. If the owner of an existing Outdoor

Furnace Boiler does not receive a permit within six months (6 mo.) of the effective date of this Regulation, the Outdoor Furnace/Boiler shall be removed. “Existing” or “in existence” means that the Outdoor Furnace / Boiler is in place on the site.

6. Specific Requirements –

A. Permitted Fuel – Only Firewood and Untreated Lumber are permitted to be burned in any Outdoor Furnace / Boiler. Burning of any and all other materials in an Outdoor Furnace is prohibited.

B. Setbacks – Outdoor Furnaces / Boilers shall be set back not less than 100 feet (100’) from all lot lines.

C. Months of Operation – Outdoor Furnaces Boilers shall be operated only between September 1st and May 31st.

D. Spark Arrestors – All Outdoor Furnaces / Boilers shall be equipped with properly functioning spark arrestors.

E. Chimney Height – The Lanesborough Board of Health shall have the option of requiring adjustments to the chimney height when necessary to establish continuity with surrounding properties.

7. Suspension of Permit – A permit issued pursuant to this Regulation may be suspended as the Board of Health may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Lanesborough if any of the following conditions occurs:

A. Malodorous air contaminants from the Outdoor Furnace / Boiler are detectable outside the property of the person on whose land the Outdoor Furnace / Boiler is located;

B. The emissions from the Outdoor Furnace / Boiler interfere with the reasonable enjoyment of life or property;

C. The emissions from the Outdoor Furnace / Boiler cause damage to vegetation or property.

D. The emissions from the Outdoor Furnace / Boiler are or may be harmful to human or animal health.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this regulation subject to the penalties provided in paragraph 9 hereof.

8. Waivers; Board of Health Ratification – The Town Board of Health may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this Regulation or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the Board of Health may impose such conditions and requirements as it deems reasonable and prudent. The Board of Health may, at its discretion, hold a public hearing as part of its review. If the Board of

The Town of Lanesborough is an equal opportunity provider. Discrimination is prohibited by Federal Law.

Health grants the waiver, a permit shall be issued for the Outdoor Furnace/ Boiler. If the Board of Health denies the waiver, the Outdoor Furnace / Boiler must either be brought into compliance with this Local Law or removed. If the Board of Health does not take any action with respect to the waiver within sixty (60) days from its receipt of an application for waiver, the waiver shall be deemed denied.

9. Enforcement; Penalties: – Failure to comply with any of the provisions of this Regulation shall be a violation and, upon conviction thereof, shall be punishable by a fine. The regulations provide a penalty provision that may be authorized pursuant to M.G.L. c.111 section 31: “(w)hoever violates any order, rule or regulation promulgated or adopted under the provisions of the section (31C) shall be punished , for the first offense, by a fine of not less than one thousand nor more than five thousand dollars and for a subsequent offense, by a fine of not less than five thousand nor more than ten thousand dollars. For the purposes of this paragraph 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 offense.” The owners of the premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Regulation. Any fine imposed hereunder shall constitute a lien upon real property where the Outdoor Furnace/Boiler is located until paid.

Revocation of a Permit: In addition, any permit issued pursuant to this Regulation shall be revoked upon conviction of a second offense and the subject Outdoor Furnace/Boiler shall not be eligible for another permit.

10. Effect of Other Regulations – Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, or any other federal, state, regional or local agency. Outdoor Furnaces /Boilers and any electrical, plumbing or other apparatus or device used in connection with an Outdoor Furnace / Boiler shall be installed, operated and maintained in conformity with the manufacturer’s specifications and any and all local, State and Federal codes, laws, rules and regulations.

In case of a conflict between any provision of this Regulation and any applicable Federal, State or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

11. Severability – The invalidity of any clause, sentence, paragraph or provision of this Regulation shall not invalidate any other clause, sentence, paragraph or part thereof.

12. Effective Date – Said Rules and Regulations were enacted by the Lanesborough Board of Health on February 25, 2008 and when approved by the DEP, and after posting a copy in a public place, shall have the force of law.