

## **Chapter 25**

### **Outdoor Wood Boilers**

#### **Sec. 25-01. Title & Purpose.**

This ordinance shall be known and may be cited as the Outdoor Wood Boiler Ordinance of the City of Old Town.

The purposes of this ordinance are to ensure that outdoor wood boilers are located in appropriate areas of the City of Old Town and within appropriate places on parcels of property, operated in a manner that limits particulate matter emissions and operated to avoid the creation of nuisance conditions.

#### **Sec. 25-02. Definitions.**

For the purposes of this chapter the following words and phrases shall have the meaning given herein:

“Clean Wood” means wood that has no paint, stain, or other types of coatings, and wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

“Property Line” means a line bounding a lot which divides one lot from another or from a street or any other public or private space.

“Nuisance” means emission of air contaminants to the outdoor atmosphere of such quality, characteristic or duration that is injurious to human, plant or animal life or to property, or that unreasonably interferes with the comfortable enjoyment of life or property.

“Outdoor Wood Boiler” means a fuel burning device: (a) designed to burn wood or other solid fuels; (b) that the manufacturer specifies for outdoor installation or in structures not normally occupied by humans; and (3) that heats building space and water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

#### **Sec. 25-03. Applicability.**

This ordinance applies to all land areas within the boundaries of the City of Old Town.

#### **Sec. 25-04. Permit Required.**

No person shall install, use, operate or maintain an outdoor wood boiler without first having obtained a permit from the City of Old Town Fire Department.

**Sec. 25-05. Applications.**

A. Every person required to obtain a permit to own, operate, or maintain an outdoor wood boiler under the provisions of this chapter shall submit an application for such permit to the Old Town Fire Department that identifies the location of the property with a street address and tax map and lot number, the name address and telephone number of the applicant and any co-applicants, as well as agents for the same.

B. Every applicant shall submit a scaled drawing of the property, identifying the property boundaries, depicting and labeling any structures on the property, and identifying the property lines, the proposed location of an outdoor wood boiler on the lot and its distance from property lines.

C. All applications shall be signed by the owner or owners of the property, lessee, or other person having legal control of the property, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

D. The application shall be accompanied by a non-refundable application fee bearing a reasonable relationship with the costs incurred by the City in the administration and enforcement of this chapter, which fee shall be established by the City Council and may be amended from time to time.

E. All applications shall be dated, and the Fire Department shall note upon each application the date and time of its receipt.

**Sec. 25-06. Existing Outdoor Wood Boilers.**

Within sixty (60) days of the effective date of this ordinance, any person operating or maintaining an outdoor wood boiler shall apply to the City of Old Town Fire Department for a permit to maintain the outdoor wood boiler. If an application is made within the time required, the use may continue pending consideration by the Fire Department. If the application is denied, the use shall be terminated. If the application is granted, the use shall comply with the provisions of this ordinance.

**Sec. 25-07. Permit Standards.**

An outdoor wood boiler shall comply with the following requirements:

A. Permitted Fuel. Only clean wood is permitted to be burned in an outdoor wood boiler. Burning any other material in an outdoor wood boiler is expressly prohibited and is a violation of this ordinance.

B. Emissions Standard. No person shall own, operate or maintain an outdoor wood boiler unless it meets a particulate matter emission limit of 0.32 pounds per million British Thermal Units (“lbs/MMBtu”) heat input.

C. Setback and Stack Height Requirements.

1. No person shall install, own, operate or maintain an outdoor wood boiler that has been certified to meet a particulate matter emission limit of 0.32 lbs/MMBtu, unless the outdoor wood boiler:
  - i. If no residence is located within 300 feet from the outdoor wood boiler, the outdoor wood boiler shall be installed at least 100 feet from the nearest property line and have an attached stack with a minimum stack height of 10 feet above ground level;
  - ii. If a neighboring residence is located within 300 feet from the outdoor wood boiler, the outdoor wood boiler shall be installed at least 100 feet from the nearest property line and have a permanent stack height extending two feet higher than the peak of the roof of the structure being served by the outdoor wood boiler.

D. Certification. No person shall own, operate or maintain an outdoor wood boiler in the City unless the outdoor wood boiler has received certification pursuant to the United States Environmental Protection Agency Outdoor Wood-Fired Hydronic Heater Program or an alternative certification program approved by the Maine Department of Environmental Protection for certification of outdoor wood boilers. The certification shall demonstrate that the outdoor wood boiler meets the applicable emission standard of this chapter.

E. Months of Operation. Outdoor wood boilers may be operated only between October 15 and April 15 of each year.

F. Nuisance. No person shall operate an outdoor wood boiler in such a manner as to create a nuisance.

G. Replacements. If an outdoor wood boiler is replaced or upgraded, a permit shall be required pursuant to Section 25-04 above and shall comply with all sections of this chapter.

H. Prohibited Zones. Outdoor wood boilers are prohibited in Zones R-1, R-2, C-1, C-3, C-4, and C-5 zones.

**Sec. 25-08. Enforcement & Administration.**

A. Enforcement.

1. The Code Enforcement Officer, Public Safety Director, or designee shall enforce the provisions of this Ordinance. If, after investigation, the enforcement official finds that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, and order the action necessary

to correct it. A copy of the notice shall be submitted to the City Council and the Fire Department and be maintained as a permanent record.

2. When the above action does not result in the correction or abatement of the violation or nuisance condition, the City Manager, upon notice from the enforcement official, shall institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the City of Old Town. The City Manager is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.
3. Any person who installs, operates or maintains an outdoor wood boiler in the City of Old Town without a permit or in violation of this ordinance, shall be subject to such fines, penalties, actions and orders as are authorized by Section 1-8 of this Code of Ordinances, as the same may be amended from time to time. A fine or penalty may be imposed for each violation. Each day of violation shall constitute a separate offense with respect to each violation. In addition, such person shall pay to the City of Old Town all the City's attorneys' fees, court costs and out-of-pocket expenses incurred by the City in any enforcement action undertaken to correct a violation of this Ordinance.

B. Permit Suspension. The Code Enforcement Officer, Public Safety Director or designee may immediately suspend any permit issued pursuant to this chapter if the Code Enforcement Officer determines that an outdoor wood boiler is operated in violation of this chapter and such operations poses an immediate threat to the health, safety or welfare of the residents of the City of Old Town. An outdoor wood boiler shall not be operated during the period in which the permit is suspended. A suspended permit shall be reinstated once the condition that gave rise to the suspension is remedied. Recurrence of a condition which previously resulted in suspension of a permit shall be considered a violation of this chapter and be subject to the penalties provided in Section 25-08(3) above.

C. Appeals. An outdoor wood boiler owner may appeal, in writing, the denial of an application, the notice of violation from an enforcement official or an enforcement official's suspension of a permit to the Old Town City Council. The Council shall consider such appeals in open session and may include, at its discretion, testimony by the property owner, testimony by the Public Safety Director or enforcement official, witnesses, and members of the general public. Any appeals upheld by the Council must find, at a minimum, that either the Old Town Fire Department or the enforcement official deviated from the conditions detailed in this chapter and state specifically what those deviations were as part of its decision. If the decision of the Fire Department or enforcement official is upheld, the suspension of the permit will continue until such time as the boiler is brought into compliance with this chapter or discontinued from use. During the appeal process, however, the outdoor wood boiler shall not be used in order to protect the health, safety, and welfare of the neighborhood.