

TEMPORARY ORDINANCE NO. 21-11

PERMANENT ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO ADOPT THE REGULATION OF OUTDOOR WOOD FURNACES REFERRED TO AS OUTDOOR WOOD FURNACES OR HYDRONIC HEATERS IN THE LANCASTER CODIFIED ORDINANCES OF THE CITY OF LANCASTER.

SECTION 1. That the following shall be adopted as Lancaster Codified Ordinance Chapter 1126 as follows:

1. Definitions
2. Regulations for Outdoor Wood Furnaces
3. Substantive Requirements
4. Violations and Penalties
5. Severability
6. Effective Date

**1126.01 DEFINITIONS**

- A. Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the 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. An outdoor wood furnace may also be referred to as an outdoor wood boiler, or hydronic heater.
- B. Chimney: Flue or flues that carry off exhaust from an outdoor wood furnace, firebox, or burn chamber.
- C. EPA HH (Hydronic Heater) Phase 2 Program – EPA HH Phase 2 Program is administered by the United States Environmental Protection Agency and has a particulate matter emission limit of 0.32 pounds per million British Thermal Units Output.
- D. EPA HH (Hydronic Heater) Phase 2 Program Qualified Model – A hydronic heater that has been EPA HH Phase 2 Program qualified. The model has met the EPA HH Phase 2 emission level and is labeled accordingly.
- E. Non Qualified Outdoor Wood Furnace Model – An outdoor wood furnace that is not EPA Hydronic Heater Phase 2 Program qualified.
- F. Existing Outdoor Wood Furnace: An outdoor wood furnace that was purchased and installed, subject to all applicable building and fire code requirements and manufacturer specifications, prior to the effective date of this ordinance.
- G. New Outdoor Wood Furnace: An outdoor wood furnace that is first installed, established, constructed, or brought into compliance with all applicable building

and fire code requirements and manufacturer specifications after the effective date of this ordinance.

- H. 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 or glues as in plywood or other composite wood products.

#### **1126.02 REGULATIONS FOR OUTDOOR WOOD 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 existing outdoor wood furnace unless such operation conforms to the manufacturer's instructions and the requirements of this ordinance regarding proper fuel use as set forth in Section 1126.03(A) and (B) hereof, and proper chimney heights and setbacks as set forth in Section 1126.03(C) and (D) hereof.
- C. Permit Required. No person shall install, use, operate or maintain an outdoor wood furnace without first having obtained a permit from the Zoning Inspector.

D. Applications.

(1) Every person required to obtain a permit to own, operate, or maintain an outdoor wood furnace under the provisions of this chapter shall submit an application for such permit to the Zoning Inspector 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.

(2) 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 furnace on the lot and its distance from property lines.

(3) 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.

(4) 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 Mayor** and may be amended from time to time.

(5) **Appeals for a variance from the strict application of the specific requirements of this Ordinance may be made to the Board of Zoning Appeals pursuant to Chapter 1157 of the Lancaster Codified Ordinances.**

E. Existing Outdoor Wood Furnace. Within sixty (60) days of the effective date of this section, any person operating or maintaining an outdoor wood furnace shall apply to the Zoning Inspector for a permit to maintain the outdoor wood furnace. If an application is made within the time required, the use may continue pending consideration by the Zoning Inspector. If the application is granted, the use shall comply with the provisions of this section. **Application fees for existing outdoor wood furnaces will be waived for sixty (60) days from the effective date of this Ordinance.**

F. 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 manufacturer's instructions shall apply.

G. The owner of any new outdoor wood furnace may be required to produce the manufacturer's owner's manual or installation instructions to the Service/Safety Director or his/her designee for review upon request.

H. The Service/Safety Director or his/her designee may, upon presentment of City credentials, inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

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

J. No person shall operate an outdoor wood boiler in such a manner as to create a nuisance. If a new or existing outdoor wood furnace is creating a nuisance, the following steps may be taken by the owner and the Service/Safety Director or his/her designee:

(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 ensure that the outdoor wood furnace will not be a nuisance.

K. Months of Operation. No person shall operate an outdoor wood furnace between April 16 and September 14 of each year.

### **1126.03        SUBSTANTIVE REQUIREMENTS**

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 be only natural untreated wood, wood pellets, corn products, biomass pellets or other listed fuels 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 and 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 wastes, food packaging, food wraps
- (3) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (4) Rubber, including tires or other synthetic rubber-like products.
- (5) Newspaper, cardboard, or any paper with ink or dye products.
- (6) Coal.
- (7) Any other items not specifically allowed by the manufacturer or this provision.

C. Chimney heights for any new or existing outdoor wood furnace:

- (1) The chimney shall extend at least two (2) feet above the peak of any residential or commercial building or structure not served by the outdoor wood furnace located within five hundred (500) feet of such outdoor wood furnace.

D. Setbacks for any new or existing outdoor wood furnace:

- (1) The outdoor wood furnace shall be located at least fifty (50) feet from the property line.
- (2) The outdoor wood furnace shall be located at least two hundred (200) feet from any residential or commercial building or structure that is not served by the outdoor wood furnace.
- (3) The outdoor wood furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.

#### **1126.04 VIOLATION AND PENALTIES**

(a) Public Nuisance. Outdoor wood furnace construction, installation, and/or uses carried on in violation of any provision of these regulations are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.

(b) Violation. Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by an enforcement official shall be deemed in violation of this Ordinance.

(c) Penalties. Any violation of these regulations shall constitute a misdemeanor. Any person who is convicted shall be subject to punishment by a fine not exceeding five hundred

(\$500.00) dollars and/or by imprisonment not exceeding ninety (90) days for each offense, at the discretion of the Court. Each day a violation occurs or continues shall constitute a separate offense. Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of these regulations may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator. The imposition of any sentence shall not exempt the offender from meeting compliance with the requirements of this Ordinance.

(d) Authority to Pursue Court Action. The Service-Safety Director or his/her designee is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Court of Common Pleas, or any other court having jurisdiction, to restrain or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such non-compliance or violation including the City may institute suit or join the City in such an action to abate the violation. Any person who violates any provision of this law shall also be subject to a civil penalty of not more than two hundred (\$200) dollars per day, to be recovered by the City of Lancaster in a civil action, and each week's continued violation shall be for this purpose a separate and distinct violation. In the event the City of Lancaster is required to take legal action to enforce this local law, the violator may be responsible for any and all necessary costs relative thereto, including attorneys' fees, and such expense shall be charged to the property so affected by including such expense in the next annual tax levy against the property.

(e) Other Remedies. The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the City to initiate proceedings in an appropriate court of law to restrain or prevent any non-compliance with any provisions of this Ordinance, or to correct, remedy, or abate such non-compliance.

(f) Rights and Remedies Preserved. Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver nor prevent further prosecution of violations of this Ordinance.

#### **1126.05 SEVERABILITY**

The provisions of this local law are severable and the invalidity of a particular provision shall not invalidate any other provisions.

#### **1126.06 EFFECTIVE DATE**

The law shall be effective upon filing with the \_\_\_\_\_.

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_ after \_\_\_\_\_ reading. Vote: Yeas \_\_\_\_\_ Nays \_\_\_\_\_

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Clerk: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Offered by: \_\_\_\_\_

Second by: \_\_\_\_\_

Requested by Law Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on \_\_\_\_\_,  
2011 and \_\_\_\_\_, 2011 the Lancaster Eagle Gazette published the summary of this  
ordinance in accordance with Ohio Revised Code 731.24.

\_\_\_\_\_  
Clerk of Council