

**TOWNSHIP OF LAFAYETTE**  
**SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2008-19

CHAPTER 8

AN ORDINANCE AMENDING AND SUPPLEMENTING THE  
TOWNSHIP OF LAFAYETTE'S BUILDING AND HOUSING  
ORDINANCE (CHAPTER 8), SPECIFICALLY ADDING SECTION 8-8  
REGULATING OUTDOOR WOOD FURNACES

**SECTION 1. PURPOSE.** This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Township of Lafayette due to the air pollution and fire hazards of Outdoor wood furnaces and outdoor burning.

**SECTION 2. FINDINGS.** Outdoor Wood Furnaces, including outdoor wood-fired hydronic heaters, (OWF), typically burn wood to heat water that is piped underground to a nearby structure (usually a home) resulting in heat for a building. With smoldering fires and short smokestacks OWFs can create heavy smoke that is released close to the ground, where it is not only a nuisance but unhealthy to breathe. Smoke contains particles which can affect both the lungs and the heart. Therefore, in order to promote public health, safety and welfare of the citizens of the Township of Lafayette OWFs as defined in this ordinance shall be subject to regulation as set forth herein.

**SECTION 3. DEFINITIONS.**

A. Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is primarily hand-loaded 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, Outdoor Wood-fired Hydronic Heater or Outdoor Hydronic Heater.

B. Outdoor Wood-Pellet Furnace: An outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, corn, or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, corn or other biomass pellets.

C. Chimney: Flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.

D. EPA OWHH Phase 1 Program: EPA OWHH (Outdoor Wood-fired Hydronic Heater) Phase 1 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.60 pounds per million British Thermal Units input and is labeled accordingly.

E. EPA OWHH Phase 1 Program Qualified Model: An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase 1 Program qualified. The model has met the EPA OWHH Phase 1 emission level and is labeled accordingly.

F. EPA OHH Phase 2 Program: EPA OHH (Outdoor Hydronic Heater) Phase 2 Program administered by the United States Environmental Protection Agency and that has a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.

G. EPA OHH Phase 2 Program Qualified Model: An Outdoor Hydronic Heater that has been EPA OHH Phase 2 Program qualified. The model has met the EPA OHH Phase 2 emission level and is labeled accordingly.

H. Existing Outdoor Wood Furnace: An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this ordinance and has been issued the Certificate of Occupancy (CO). The furnaces shall at a minimum meet EPA and NJDEP air emission requirements.

I. New Outdoor Wood Furnace: An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this ordinance. All new furnaces shall meet or be more limiting in air emissions than the EPA OHH Phase 2 Program requirements and shall be in compliance with NJDEP air emission requirements.

J. 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.

K. Permit to Operate an Outdoor Wood Furnace: All persons, or authorized representatives, planning to install an Outdoor Wood Furnace shall obtain a permit from the Building Department and submit required documentation in accordance with this ordinance. This permit shall be in addition to any other permits, such as plumbing, electrical, and other sub-code permits and fees, as required by the Building Department. The permit fee for review, administration, and inspection of the Outdoor Wood Furnace to verify compliance with this ordinance shall be set at One Hundred Twenty (\$120.00) dollars. A permit shall be obtained prior to operation, as defined by burning of fuel, connection of electric, and connection of plumbing. A permit shall also be obtained prior to operating an Outdoor Wood Furnace following a transfer or sale of property at which the furnace is located.

L. Significant Changes in Elevation: For the purpose of this ordinance, significant changes in elevation are any natural or manmade objects, such as hills, ridgelines, stone outcroppings, tree lines, and structures, which are greater than 30 feet in height above the natural grade of the Outdoor Wood Furnace.

M. Site Plan: For the purpose of this Ordinance, a site plan can be prepared by the owner of the property and does not require a professional engineer or surveyor. The most recent Survey for the property should be used and indicate all structures in the owner's property. The site plan shall indicate the location of the furnace and height of the chimney. The site plan shall be prepared by the owner or authorized representative of the owner of any Outdoor Wood Furnace and shall at a minimum show the metes and bounds of owner's property and straight line distance from the Outdoor Wood Furnace to 1) property lines, 2) owner's residence, and 3) all residential and commercial structures within 500 feet. Significant changes in elevation within 200 feet of the Outdoor Wood Furnace, such as ridgelines, hilltops, and tree lines, shall be indicated on the Site Plan

#### **SECTION 4. REGULATIONS PERTAINING TO CONSTRUCTION AND INSTALLATION; NUISANCE**

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 with the manufacturer's instructions regarding such operation and maintenance, and the requirements of this ordinance regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Sections 3.A, 3.B, 3.J, and 5.A of this ordinance.

C. 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 more strict, in which case the manufacturer's instructions shall apply.

D. The owner of any new Outdoor Wood Furnace shall obtain a Permit to Operate an Outdoor Wood Furnace and submit the following documents:

1. the manufacturer's owner's manual or installation instructions to the building department prior to installation
2. provide a site plan

E. 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 and meet emission limits of EPA OHH Phase 2 Program.

F. Nuisance: If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local or state authorities, creating a verifiable nuisance, as defined by ordinance or law, the owner shall be required to take the following steps at the direction of the building department or code enforcement officer of Lafayette Township:

- (1) Modifications made to the unit to eliminate the nuisance such as extending the chimney or relocating the Outdoor Wood Furnace or both, as specified in this ordinance.
- (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.
- (3) Demonstrate that the Outdoor Wood Furnace is installed in compliance with manufacturer's instructions.

G. The sale or transfer of any property with an Existing Outdoor Wood Furnace shall be required to obtain a permit to operate as defined in Section 3.K of this ordinance. The furnace unit shall be removed or rendered inoperable until an inspection of the furnace is conducted and operation of the furnace in accordance with manufactures instructions is verified.

## **SECTION 5. REGULATIONS PERTAINING TO OPERATION, SETBACKS AND CHIMNEY HEIGHT**

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 location of any new or existing Outdoor Wood Furnace shall not be located in front of the primary residence. For corner lots, this limitation shall apply to both residential structure sides facing a roadway.

C. No Outdoor Wood Furnace shall be located within 500 feet of the property lines of a school, daycare, medical facility or public park.

D. The following fuels are strictly prohibited in any new and/or 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) Any other items not specifically allowed by the manufacturer or this provision.

E. Setbacks for any New Outdoor Wood Furnace model:

- (1) The Outdoor Wood Furnace setback from property lines shall comply with Chapter 13, Section 8.6 of Lafayette Ordinance for Yard and Dimensional setbacks but at a minimum shall not have less than a 50 foot side yard and 125 foot rear yard from the property line.
- (2) The Outdoor Wood Furnace shall be located at least 200 feet from any residence 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.

F. Chimney heights for any New Outdoor Wood Furnace model:

- (1) The chimney of any new Outdoor Wood Furnace shall extend at least 2 feet above the peak of any residence not served by the Outdoor Wood Furnace located within 300 feet of such Outdoor Wood Furnace.
- (2) For distances of not less than 300 feet but no more than 500 feet from any residence not served by the furnace, the stack height shall be at least 25% of the peak line of that residence, plus an additional 2 feet.
- (3) If located more than 500 feet from any residence not served by furnace, the stack height shall be in accordance with manufacturer's instructions but in no case be less than 5 feet above the peak roof line of the furnace unit.

G. Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, corn or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufactures' recommendations.

**SECTION 6. SITUATIONS AS TO WHERE THIS ORDINANCE DOES NOT APPLY.** This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances. This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned are specifically precluded by this ordinance. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

**SECTION 7. VIOLATION AND PENALTIES.** The penalty for violation of any portion of this ordinance shall be a fine of not less than twenty-five dollars (\$25) or more than two hundred fifty dollars (\$250) plus the cost of prosecution. Penalties are doubled for second and subsequent offenses... Each week's continued violation shall constitute a separate and distinct offense.

**SECTION 8. INSPECTION AND RIGHT OF ENTRY.** The code enforcement officer of Lafayette Township or any authorized officer, agent, employee or

representative of the Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. If the owner or occupant of the premises denies access to the property for this purpose, the Township may apply for a court order or warrant pursuant to law to compel entry to the property to carry out the provisions of this ordinance.

**SECTION 9. SEVERABILITY.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provisions so declared invalid shall be inseparable from the remainder of any portion thereof.

**SECTION 10. INCONSISTENT ORDINANCES REPEALED.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 11. EFFECTIVE DATE.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

#### NOTICE

The above Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting held on October 21, 2008 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on November 5, 2008.

Mayor:

Municipal Clerk: