

Brimfield Board of Health
Regulations for Outdoor Wood-Fired Boilers
March 9, 2010

A. Applicability

The Board of Health (BOH) of the Town of Brimfield, pursuant to Sections 31 and 31C of Chapter 111 of the Massachusetts General Laws, hereby proposes these regulations in order to minimize the human health hazards resulting from the smoke and noxious fumes emitted by outdoor wood-fired boilers (OWB), to encourage proper techniques in the use and location of these boilers and to promote the public comfort and convenience.

These regulations shall apply to each OWB installed after **November 1, 2007**. In addition, any OWB that was installed prior to **November 1, 2007**, has until **October 1, 2008**, to come into compliance with these regulations.

B. Definition

Outdoor Wood-Fired Boiler (OWB) means a fuel burning device designed: (1) to burn seasoned wood by hand-firing; (2) not to be located inside structures ordinarily occupied by humans and, (3) to heat spaces or water by the distribution through pipes of a fluid heated in the device, typically water. Examples of common uses of outdoor wood-fired boilers include: residential or commercial space heating, heating of domestic hot water and heating of water for swimming pools, hot tubs or whirlpool baths.

Effective Date means this Regulation shall take effect upon approval by the Department of Environmental Protection and publication in accordance with G.L. c. 111, §31C.

C. Requirements

1. A permit is required from the BOH to use an OWB in the **Town of Brimfield**.
2. **Any person desiring to install an OWB after the effective date of this regulation shall apply for a permit from the Board of Health prior to the installation and/or use of such OWB.** The permit process shall include submission of a written application form and payment of the permit fee established by the BOH. The application must be accompanied by a map indicating the proposed OWB location in relation to other buildings and separation distances between the OWB and all buildings and outbuildings on the site of the OWB and all neighboring houses within 400 feet, together with identification of all roads adjacent to the site and the distance from the OWB to wooded areas, brush and flammable structures.

3. Any person using an OWB prior to the effective date of this regulation may continue to use said OWB until **October 1, 2008**. No later than **January 1, 2008**, any person using an OWB prior to the effective date of this regulation shall apply for a permit from the Board of Health to continue using said OWB after **October 1, 2008**. Said application shall be submitted in accordance with the process set forth in Paragraph C(2) and shall demonstrate compliance with Section D in these regulations.
4. Any person using an OWB prior to the effective date of this Regulation shall discontinue said use by **October 1, 2008** unless a permit is issued by the Board of Health prior thereto.

D. Prohibition

No person shall use, install or allow the installation of an OWB and no permit shall be issued by the Board of Health unless the OWB complies with all applicable laws, including but not limited to these regulations, local bylaws and 310 CMR 7.26 (50-54) Outdoor Hydronic Heaters:

1. Must burn only seasoned wood that has not been chemically treated. Any other material burned in the OWB would constitute a violation of these regulations.
2. Installation and operation of the OWB must be conducted in accordance with the manufacturers' written instructions provided they do not conflict with these regulations.
3. Is located more than 15 feet from the residence it is serving and 200 feet from any residence other than the residence it serves. For commercial installations, site or install a commercial-size outdoor hydronic heater least 275 feet or more from any property line and 300 feet from any occupied dwelling that it is not serving, at the time of installation, unless a variance has been granted pursuant to 310 CMR 7.26(52)3.a-d. from the setback to the property line that allows a shorter distance than 275 feet but no less than 200 feet.
4. The stack height for an OWB must be in compliance with 310 CMR 7.26 (52) Outdoor Hydronic Heaters.
5. Complies with all applicable laws and its operation does not create a public nuisance.

Seasonal limitations: No person shall cause, suffer, allow or permit the operation of an outdoor hydronic heater from May 16 to September 30 unless the outdoor hydronic heater has been certified in accordance with 310 CMR 7.26(54) to meet the emission standard set forth in 310 CMR 7.26(53) (a) or 310 CMR 7.26(53)(b) as applicable, or it is an existing unit installed at least 500 feet from the nearest occupied dwelling that it is not serving.

The requirements set forth in this Section are intended to set forth the minimum criteria that the Board of Health presently believes is required to protect public health, safety and the environment, based on information reviewed by the Board as of the

effective date of this Regulation. Nothing in these Regulations is intended to limit the powers of the Board of Health and the Board expressly reserves its right to take further action or impose additional conditions with respect to any individual OWB pursuant to its authority as set forth in G.L.c.111, §122-125 (regarding nuisances), or any other applicable law.

E. Enforcement

1. Permit Suspension or Revocation

The Board of Health may suspend or revoke any permit issued pursuant to these regulations for any violation of these regulations, or any other applicable General Law, regulation or by-law. Such revocation or suspension may take place after a hearing held by the Board of Health of which the permit holder is given seven (7) days written notice. Such notice shall be deemed given upon mailing same, certified mail, return receipt requested, to the address listed on the permit application.

2. Penalty Provision

The Regulation provides a penalty provision that may be authorized pursuant to M.G.L. c. 111, § 31. The Board is advised, however, that Section 31C provides the following penalty provisions:

“[w]hoever violates any order, rule or regulation promulgated or adopted under the provisions of this 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 is continuous or intermittent, shall be construed as a separate and succeeding offense.” (Emphasis added).

3. Other

Whoever violates any provision of this regulation may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be one thousand dollars (\$1,000). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Board of Health may enforce these Regulations or enjoin violations thereof through any lawful process and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

F. Variances

The Board of Health may grant a variance to Section D.3 or D.4 of these regulations, after a public hearing for existing installations only. The application procedure will be as follows:

1. The applicant must apply for a permit as required in C. sections 1 and 2, indicating the section(s) of the regulations for which a variance is requested and the reason for the request. An additional fee may be charged to cover the costs of inspections.
2. The Board of Health will set a date for a Public Hearing. The property must be inspected by the BOH representative prior to the date of the hearing.
3. The petitioner must notify all abutters within 400 feet of the affected property by certified mail at least 10 days before the public hearing. Said notice shall state the purpose of the hearing and contain the date, time and location of the hearing.
4. The Board of Health has the right to issue either temporary or permanent variances.
5. If a variance is granted, the BOH representative must inspect the OWB and its installation before the final permit is issued.

G. Effective Date

Original Regulations were passed on September 11, 2007 at a regularly scheduled Board of Health meeting.

These Regulations shall take effect on November 1, 2007. A copy of these Regulations will be on file with the Department of Environmental Protection.

Public Hearing:	December 12, 2006
Posting of Open Meeting:	October 19, 2006 in Town Hall, Town Hall Annex and Brimfield Post Office
Legal Ad for Hearing:	The Journal Register: November 23 and November 30, 2006 Southbridge Evening News: November 22 and December 1, 2006
Cable Advisory Board:	Start date of November 13, 2006, end date of December 13, 2006
Legal Notices:	Journal Register: September 20, 2007 Southbridge Evening News: September 18, 2007
Posting of Regulations:	September 14, 2007 in Town Hall, Town Hall Annex, Library, Post Office and Cable Ad with end date of October 2, 2008
Posting of Open Meeting:	July 20, 2009 in Town Hall Annex, Library and Brimfield Post Office
Legal Ad for Hearing:	Southbridge Evening News: July 23, 2009, Turley Publications: July 23, 2009
Public Hearings:	August 4, 2009, September 8, 2009

Revision Amendments: Approved by the Board of Health September 8, 2009
(posting done incorrectly-not approved by DEP. DEP never
received original Regulations)

Effective Date: October 6, 2009

Approved revision changes of September 8, 2009 include:

Pg. 2, Section D: Prohibition

Beginning paragraph:

Strike:

Subject to the requirements of this regulation

Add after: unless the OWB...**complies with all applicable laws, including but
not limited to these regulations, local bylaws and 310 CMR 7.26 (50-54)**

Outdoor Hydronic Heaters:

#4: Strike entire paragraph

Add: **The stack height for an OWB must be in compliance with 310 CMR
7.26 (52) Outdoor Hydronic Heaters.**

#5: Strike:

Including, but not limited to local ordinances.

#6: Strike:

No OWB shall be used between May 1 and September 20 of any year.

Legal Notices: Turley Publications: October 29, 2009

Southbridge Evening News: October 26, 2009

Posting of Amendments: October 21, 2009 in Town Hall Annex, Library, Brimfield Post
Office and Cable Access

Revision Amendments (2): Approved by Board of Health March 9, 2010

Effective Date: March 10, 2010

Public Hearing: March 9, 2010

Posting of Public Hearing: February 16, 2010 in Town Hall Annex, P.O., Cable and Library

Legal Ad for Hearing: Southbridge Evening News: February 17, 2010 and February 26,
2010

Legal Notices: Southbridge Evening News: May 28, 2010

Posting of Approval: Town Hall Annex, Cable Access, Brimfield P.O. and Library:
June 17, 2010

Revision changes for March 9, 2010 include:

Review entire Brimfield Outdoor Wood-Fired Boiler Regulations as written to date
And

Pg. 1, Section B:

Strike the words, or coal

Pg. 2, Section D, item 1:

Strike the words, or coal

Pg. 2, Section D, item 6:

Add paragraph regarding seasonal limitations from 310 CMR 7.26 (50)

Outdoor Hydronic Heaters, Pg. 5, Section C.