

**TOWN OF SANTA CLARA LOCAL LAW NO. 1 of the YEAR 2009 ENACTED ON
JULY 24, 2009**

A LOCAL LAW REGULATING THE USE OF OUTDOOR WOOD BOILERS IN THE TOWN OF SANTA CLARA

Be it enacted by the Town Board of the Town of Santa Clara as follows:

SECTION 1. Title and Authority. This Local Law shall be known as the Town of Santa Clara Outdoor Wood Boiler Local Law. It is adopted pursuant to Section 10 of the Municipal Home Rule Law.

SECTION 2. Legislative Intent. Although outdoor wood boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding their safety and environmental impacts, particularly because of the production of offensive odors and potential health effects of uncontrolled emissions. This Local Law is intended to ensure that outdoor wood boilers are utilized in such a manner that they do not create a nuisance and are not detrimental to the health, safety and general welfare of the residents of the Town.

SECTION 3. Definitions.

(a) "Outdoor wood boiler" means any equipment or device, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat and/or hot water for any interior space via the distribution, typically through pipes, of a gas or liquid heated in the device.

(b) "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.

(c) "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.

SECTION 4. Permit Required. No person shall cause, allow or maintain the use of an outdoor wood boiler within the Town of Santa Clara (the "Town") without first having obtained a permit from the Town Codes Enforcement Officer. Application for a permit shall be made to the Codes Enforcement Officer on the form provided.

SECTION 5. Existing Outdoor Wood Boilers.

(a) Any outdoor wood boiler in place on the property owner's site on the effective date of this Local Law shall be "grandfathered" in its operation and permitted to remain, except that such outdoor wood boiler must comply with the requirement of the following provisions of this Local Law: Section 6 (a) as to permitted fuel; Section 6 (c) as to the months of permitted operation; and Section 6 (d) as to spark arrestors.

(b) Any outdoor wood boiler in existence on the effective date of this Local Law, the use of which is abandoned or discontinued for a period of one year or more, or which becomes damaged to the extent of 50% or more of its value, shall not be reestablished and must be immediately removed by the property owner. Thereafter, in order to install a new outdoor wood boiler the property owner must obtain a new permit from the Town and the new outdoor wood boiler must comply with all of the provisions of this Local Law.

(c) The provisions of Section 7 (a) (i) through (iv) of this Local Law as to permit revocation shall apply to any outdoor wood boiler which is in place on the property owner's site on the effective date of this Local Law.

SECTION 6. Specific Requirements.

(a) Permitted Fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor wood boiler. Burning of any and all other materials in an outdoor wood boiler is prohibited.

(b) Setbacks. Outdoor wood boilers shall be set back not less than fifty (50) feet from the property lines of the individual installing the outdoor wood boiler. The outdoor wood boiler shall be located not less than two hundred (200) feet from all neighboring residences.

(c) Months of Operation. Outdoor wood boilers shall only be operated from October 1 to April 15 of each year. Operation during the months of May through September is prohibited.

(d) Spark Arrestors. All outdoor wood boilers must be equipped with properly functioning spark arrestors.

(e) Chimney (Stack) Height. All outdoor wood boilers must be equipped with a permanent chimney (stack) extending a minimum of eighteen (18) feet above ground level.

(f) Emission Limits. All outdoor wood boilers must be EPA Phase II certified or qualified (be less than 0.32 pounds per million btus per hour output per test Method 28-OWHH).

Proof of compliance with this standard must be submitted with the outdoor wood boiler permit application.

SECTION 7. Revocation of Permit.

(a) A permit issued pursuant to this Local Law may be revoked by the Town Codes Enforcement Officer, if he determines such revocation to be necessary to protect the public health, safety and welfare of the residents of the Town, if any of the following conditions occurs:

(i) A violation of any subparagraph of Section 6 above.

(ii) The emissions from the outdoor wood boiler interfere with the reasonable enjoyment of life or property, or adversely affect the safety or health of humans or animals;

(iii) Malodorous emissions from the outdoor wood boiler are detectable outside the property of the person on whose land the outdoor wood boiler is located; or

(iv) The emissions from the outdoor wood boiler cause damage to vegetation or property.

(b) If the use of any outdoor wood boiler installed after the effective date of this Local Law pursuant to a permit issued by the Town Codes Enforcement Officer is abandoned or discontinued for a period of one year or more said permit shall be considered revoked. In such case, the property owner must immediately remove the outdoor wood boiler

SECTION 8. Enforcement. Failure to comply with any of the provisions of this Local Law shall be a violation and upon conviction thereof shall be punishable by a fine of not more than \$500 or

imprisonment for a period of not more than ten (10) days, or both, for the first offense. Any subsequent offense shall be punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than thirty (30) days, or both. In addition, any permit issued pursuant to this Local Law shall be revoked upon conviction of a second offense and the subject Outdoor Wood Boiler shall not be eligible for another permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Local Law. Any fine imposed hereunder shall constitute a lien upon the real property where the Outdoor Wood Boiler is located until paid.

SECTION 9. 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, New York State Department of Environmental Conservation, Adirondack Park Agency or any other federal, state, regional or local agency. Outdoor Wood Boilers, and any electrical, plumbing or other apparatus or device used in connection with an Outdoor Wood 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 Local Law and any applicable Federal, State or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

SECTION 10. Severability. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

SECTION 11. Effective Date. This Local Law shall take effect upon its being filed in the office of the New York State Secretary of State, or as otherwise provided