

**TOWN OF MOREAU  
LOCAL LAW NO. 1 OF 2010  
OUTDOOR HYDRONIC HEATERS**

**CHAPTER 76**

- § 76-1. **Title.**
- § 76-2. **Legislative Intent.**
- § 76-3. **Definitions.**
- § 76-4. **Specific Requirements.**
- § 76-5. **Existing Outdoor Hydronic Heaters.**
- § 76-6. **Prohibited Fuels.**
- § 76-7. **Revocation of Permit.**
- § 76-8. **Enforcement.**
- § 76-9. **Effect of Other Regulations.**
- § 76-10. **Severability.**
- § 76-11. **Effective Date.**

§ 76-1. **Title.** This Local Law shall be known as Chapter 76 of the Code of the Town of Moreau and more specifically known as the “Town of Moreau Outdoor Hydronic Heaters Local Law”.

§ 76-2. **Legislative Intent.** Although Outdoor Hydronic Heaters, hereinafter “OHH”, (e.g. outdoor woodburning furnaces ) provide an alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impact of OHH, particularly the production of offensive odors and potential health affects from uncontrolled emissions. It is the purpose and intent of this Chapter to ensure that OHH are utilized in a manner that does not create a nuisance and is not detrimental to the public health, safety and welfare of the residents of the Town of Moreau.

§ 76-3. **Definitions.**

- A. **Clean Wood** - wood that has not been treated with paint, stains or other types of coatings or chemicals, including but not limited to copper chromium arsenate, creosote, or pentachlorophenol.
- B. **Existing OHH** - an OHH that is installed and operational at the location of use as of the effective date of this Chapter.
- C. **Nuisance Condition** - a condition caused through allowing emissions or air contaminates in the outdoor atmosphere in such a quantity, characteristic

or duration that may be injurious to human, plant or animal life or to property, or that unreasonably interferes with the comfortable enjoyment of life or property.

- D. OHH - a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g. garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
  
- E. Prohibited Fuels - notwithstanding that any of the fuels on the following list of fuels may be recommended for use by the OHH manufacturer, the following fuels are expressly prohibited from use in the operation of OHH including.
  - 1. any wood that does not meet the definition of clean wood;
  - 2. garbage;
  - 3. tires;
  - 4. lawn clippings or yard waste;
  - 5. materials containing plastic;
  - 6. materials containing rubber;
  - 7. waste petroleum products;
  - 8. paints and paint thinners;
  - 9. chemicals;
  - 10. coal;
  - 11. glossy or colored papers;
  - 12. construction and demolition debris;
  - 13. plywood;
  - 14. particle board;
  - 15. manure;
  - 16. animal carcasses; and
  - 17. asphalt products.

**§ 76-4. Specific Requirements.**

- A. Permit Required. A building permit for a new OHH must be obtained from the Town Building Inspector/ Code Enforcement Officer before a person shall cause, allow or maintain the use of an OHH. Only those OHH that are certified to meet current emission standards promulgated by the United States Environmental Protection Agency (EPA) shall be eligible for a permit. An application for a permit along with the proscribed application fee shall be made to the Town Building Inspector/Code Enforcement Officer on forms available from the office of the Town

Building Inspector/Code Enforcement Officer. Failure to obtain a permit for an OHH as provided herein or the failure to comply with the specific requirements of this section shall constitute a violation of this Chapter. A violation of this section may result in the revocation of the issued permit pursuant to § 76-7.

- B. Minimum Lot Size. The minimum lot size on which an OHH may be allowed and maintained is four (4) acres or more in total area.
- C. Setbacks. OHH shall be set back a minimum of 200 feet from any property line. OHH shall not be allowed in any "Front yard" as defined in Chapter 149, Zoning.
- D. Subdivision. Properties that have a permitted OHH shall not be allowed to subdivide unless the parcel containing the OHH complies with this Chapter in its entirety.
- E. Months of Operation. OHH may be operated from October 1<sup>st</sup> thru April 30<sup>th</sup>. Exemptions to this provision may be granted by the Building Inspector/Code Enforcement Officer. Non-seasonal use exemptions may be granted by the Building Inspector/Code Enforcement Officer provided that the requirements of §76-4(B) and (C) are complied with, or as may be deemed appropriate by the Building Inspector/Code Enforcement Officer. This exemption can be applied for any OHH, whether new or nonconforming. A determination made by the Building Inspector/Code Enforcement Officer under this paragraph, may be appealed in writing to the Town Board for review within (30) days of the date of this determination.
- F. Height of Stack. The minimum height of the stack for any OHH shall be per the manufacturers installation instructions.

**§ 76-5.**

**Existing Hydronic Heaters.** Any OHH in existence, as defined herein, on the effective date of this Chapter shall be deemed to be a non-conforming use and permitted to remain provided that the owner submits an application for a permit, receives a permit from the Town Building Inspector/ Code Enforcement Officer and brings the existing OHH into compliance with this law within 180 days of such effective date; provided, however that upon the effective date of this Chapter all the specific requirements of § 76-4 hereof, except §76-4 (A), (B), (C) and (F) shall immediately apply to existing OHH. If the owner of an existing OHH is not in compliance within 180 days of the effective date of this Chapter, the OHH shall be deemed illegal and must be removed. The failure to do so shall constitute a

violation of this Chapter.

Replacement of non-conforming OHH. Replacement of a non-conforming OHH shall comply with this law in its entirety.

§ 76-6. **Prohibited Fuels.** The use of Prohibited Fuels, as that term is defined herein, in the operation or use of any OHH is unlawful and shall constitute a violation of this Chapter. A violation of this section may result in the revocation of the issued permit pursuant to §76-7.

§ 76-7. **Revocation of Permit.** Upon notice to the property owner and the opportunity to be heard, the Town Board may direct the Building Inspector/ Code Enforcement Officer to revoke a permit issued pursuant to this Chapter upon a determination by the Town Board that it is necessary to protect the public health, safety and welfare of the residents of the Town of Moreau and to protect the value of real property in the Town of Moreau if any of the following conditions exist or occur:

- A. The emissions from the OHH are or may be harmful to human or animal health or harmful to the use or enjoyment of real property; or
- B. Noncompliance with any provision of this Chapter or permit requirements; or
- C. Maintaining a Nuisance Condition as that term is defined herein.

Notwithstanding anything in this section to the contrary, the Building Inspector/Code Enforcement Officer may order cessation of the OHH operations when it is determined that there is an immediate negative impact to the public health, safety and general welfare of residents of the Town of Moreau. Notwithstanding anything in this Chapter to the contrary, nothing herein shall otherwise restrict the authority of the Local Board of Public Health under Article 13 of the New York State Public Health Law.

A revoked permit may be reinstated by the Building Inspector/ Code Enforcement Officer once the condition which resulted in revocation is remedied and reasonable assurances are given that such condition will not recur.

§ 76-8. **Enforcement.** Failure to comply with any of the provisions of this Chapter shall constitute a violation of this Chapter and, upon conviction thereof, shall be punishable by a fine of not more than \$250.00 for the first offense. Any subsequent offense shall be punishable by fine of not more than \$500.00. Each day that a violation occurs shall constitute a separate offense. The owner(s) of the

premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Chapter. Any fine imposed hereunder shall constitute a lien upon the real property where the OHH is located until paid in full.

- § 76-9. **Effect of Other Regulations.** Nothing contained herein shall authorize or allow burning which is prohibited by Codes, Laws, Ordinances, Rules or Regulations promulgated by the United States Environmental Protection Agency or any other Federal, State, Regional or Local agency. OHH, and any electrical, plumbing or other apparatus or device used in connection with OHH shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all Federal, State and Local Codes, Laws, Ordinances, Rules and Regulations. In case of a conflict between any provision of this Chapter and any applicable Federal, State or Local Codes, Laws, Ordinances, Rules or Regulations, the more restrictive or stringent provision or requirement shall prevail.
- § 76-10. **Severability.** Should any section or provision of this Chapter be deemed to be unconstitutional or invalid by a Court of law, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.
- § 76-11. **Effective Date.** This Chapter shall take effect upon filing in the Office of the New York State Secretary of State.

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