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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO HEALTH AND SAFETY - OUTDOOR WOOD-FIRED HYDRONIC
HEATERS

Introduced By: Representatives Flaherty, Chippendale, McNamara, Ruggiero, and Handy

Date Introduced: February 16, 2012

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 23.7

4 OUTDOOR WOOD-FIRED HYDRONIC HEATERS

5 **23-23.7-1. Purpose. --** The general assembly hereby finds and declares that outdoor
6 wood-fired hydronic heaters, also known as outdoor wood-burning boilers or outdoor wood
7 boilers may be recognized as a source of air pollution. Emissions from outdoor wood heaters that
8 are a result of improper use or maintenance may have adverse health effects. The purpose of this
9 chapter is to protect the public health, safety and welfare while maintaining homeowners' rights
10 to choose to heat their homes with a safe, economical, and ecologically plentiful fuel source.

11 **23-23.7-2. Definitions. --** The following words when used in this chapter shall have the
12 following meaning:

13 (1) "Clean wood" means wood that has not been painted, stained, coated, preserved, or
14 treated with chemicals, including, but not limited to, copper chromium arsenate, creosote, and
15 pentachlorophenol. This definition does not include construction or demolition debris as defined
16 in subdivision 23-18.9-7(4).

17 (2) "DEM Director" means the director of the department of environmental management
18 or designee.

1 (3) “DOH Director” means the director of the department of health, or designee.

2 (4) “EPA” means the United States Environmental Protection Agency.

3 (5) “Municipality” means a city or town. Municipality shall not mean village, or fire
4 district.

5 (6) “Nuisance” means the use of any outdoor wood-fired hydronic heater in a manner that
6 violates “Air Pollution Control Regulation No. 48” promulgated by the Rhode Island department
7 of environmental management on April 14, 2011.

8 (7) “Grandfathered” means any devices that have been installed prior to July 1, 2012.
9 So-called “Grandfathered” units are not exempt from section 23-23.7-3 and subsection 23-23.7-
10 4(a) of this chapter regarding the lot size prohibition for OHH installations. All other applicable
11 restrictions shall apply to these units including the “Nuisance clause” (section 23-23.7-9).

12 (8) “Outdoor wood-fired hydronic heater”, or “OHH” means a device:

13 (i) Designed to burn wood or other solid fuels;

14 (ii) That the manufacturer specifies for outdoor installation or in structures not normally
15 occupied by humans; and

16 (iii) That heats building space and/or water through distribution through pipes of a fluid,
17 typically water or a mixture of water and antifreeze, heated by the device.

18 (9) “Conventional outdoor wood-fired hydronic heater” means an outdoor wood-fired
19 hydronic heater that has not been certified or qualified by the U.S. Environmental Protection
20 Agency (EPA) as meeting any specific particulate matter emission.

21 (10) “Phase 1 outdoor wood-fired hydronic heater” means an outdoor wood-fired
22 hydronic heater that has been certified or qualified by the U.S. Environmental Protection Agency
23 (EPA) as meeting a particulate matter emission limit of 0.60 pounds per million British Thermal
24 Units (BTUs) output and is labeled accordingly with an EPA label.

25 (11) "Phase II outdoor wood-fired hydronic heater" means an outdoor wood-fired
26 hydronic heater that has been certified or qualified by the U.S. Environmental Protection Agency
27 (EPA) as meeting a particulate matter emission limit of 0.32 pounds per million British Thermal
28 Units (BTUs) output and is labeled accordingly with an EPA label.

29 (12) “Person” means any individual, partnership, firm or co-partnership, association,
30 company, trust, corporation, department, bureau, agency, private or municipal authority, or any
31 political subdivision of the state, the United States and or political subdivisions thereof, or any
32 other entity recognized by law as subject to rights and duties.

33 **23-23.7-3. Use or installation prohibited. --** (a) Effective upon passage, no person may
34 use, allow to be used or install an OHH on property of a lot size less than one half (1/2) of one

1 acre, or twenty-one thousand seven hundred eighty (21,780) square feet.

2 (b) Effective immediately, no person may install a conventional outdoor wood-fired
3 hydronic heater in any location within the state of Rhode Island.

4 (c) Effective July 1, 2012, no person shall sell, offer for sale – be it public or private sale
5 - an OHH that is not a Phase I or Phase 2 OHH for use in Rhode Island.

6 (d) Any OHH currently installed on a lot of this sub-standard size shall be removed
7 within twelve (12) months of the enactment of this chapter.

8 **23-23.7-4. Setback and stack height requirements.** -- No person shall install an OHH
9 unless it: (1) Is installed at least fifty feet (50') from the nearest property line and seventy-five
10 feet (75') from the nearest occupied building; and

11 (2) Is set back from the building it services in accordance to any manufacturer's
12 recommendations and;

13 (3) Has a permanently attached stack that is at least two feet (2') higher than the height of
14 adjacent occupied structures that are located within one-hundred fifty (150') of the OHH.

15 **23-23.7-5. Manner of installation.** -- Effective July 1, 2012, no person shall install an
16 OHH unless he or she first obtains all required permits from the appropriate authority for all
17 mechanical, electrical and plumbing elements of the installation and these installations are
18 approved and signed by said authority upon completion of the installation.

19 **23-23.7-6. Permitted fuels.** -- (a) No fuel except the following shall be burned in a
20 outdoor wood-fired hydronic heater:

21 (1) Clean wood;

22 (2) Wood pellets made from clean wood;

23 (3) Home heating oil, natural gas, or propane that complies with all applicable sulfur
24 limits and is used as a starter or supplemental fuel for a dual-fired outdoor wood-fired hydronic
25 heater;

26 (4) Any other fuel approved by the director pursuant to duly-promulgated regulations.

27 (b) Outdoor wood-fired hydronic heaters specifically designed to burn wood pellet fuel
28 with metered fuel and air feed and controlled combustion engineering that are operated according
29 to manufacturer's specifications and that burn only wood pellet fuel shall be exempt from the
30 provisions of this chapter.

31 **23-23.7-7. Limitations on allowable fuels.** – No person shall cause or allow any material
32 to be burned in an OHH heater forbidden in section 23-23.7-6.

33 **23-23.7-8. Municipal ordinances.** -- Cities and towns shall have the authority and duty
34 to enact and enforce ordinances that regulate the installation and use of OHH devices. Such

1 ordinances shall establish setbacks and stack heights that are suitable to zoning and planning
2 guidelines of said municipalities that are equal to, or more stringent than those set forth in this
3 chapter.

4 **23-23.7-9. Nuisance clause. --** If the owner or operator of an outdoor wood-fired
5 hydronic heater as defined in this chapter operates the OHH in a manner which causes a nuisance
6 or is injurious to the public health, the director of DEM, or director of DOH may, in writing,
7 order that the use of the OHH shall be discontinued until the cause of the nuisance has been
8 rectified in the prescribed manner indicated by the written order. The DEM director, and DOH
9 director shall provide technical assistance to the municipal authorities in the determination of,
10 declaration of, and enforcement of the nuisance provision under this section.

11 **23-23.7-10. Local enforcement. --** (a) The responsibility for the enforcement of this
12 chapter shall be with the local municipal building authority or such other local building official as
13 a municipality may designate by ordinance.

14 (b) The municipality shall design, by ordinance all mechanisms through which nuisance
15 complaints will be investigated and what agency within that municipality, in conjunction with the
16 state DEM or DOH, shall execute any orders for corrective actions or cease and desist orders.

17 (c) It shall be incumbent upon the municipal agency performing the inspection of any
18 OHH to submit a record of all findings and necessary corrective actions with a compliance
19 completion time-limit to the operator of the OHH and the municipal building inspector.

20 **23-23.7-11. Notice to buyers. --** (a) Prior to the execution of a sale for a new or used
21 OHH, the distributor/seller shall provide the prospective buyer with a copy of this chapter and
22 written notice which includes;

23 (1) An acknowledgement that the buyer was provided with a copy of this chapter as well
24 as DEM Air Pollution Control Regulation No. 48;

25 (2) A list of approved fuels;

26 (3) A statement that even if the requirements set forth in this chapter are met, there may
27 be ordinances imposed by the buyer's municipality or findings of adverse effects by the director
28 of DEM or the director of DOH that may limit or prohibit the use of the purchased OHH.

29 (b) The notice shall be signed and dated by the buyer and the distributor/seller when the
30 sale of the OHH is completed. The name and address of owner, name of the manufacturer, and
31 the model and date of manufacture of the OHH shall be included in the completed notice.

32 (c) A copy of the signed written notice required pursuant to subsection (b) above, shall be
33 kept on file by the municipal building authority in which the OHH will be installed for a period
34 not less than three (3) years from the date of approval of the building permit, and shall be made

1 available upon request for copying and/or inspection by the director of DEM or the director of
2 DOH.

3 (d) If the sale is a private, or out of state sale, it will be incumbent upon the building
4 official of the municipality in which the OHH will be installed to provide the documents listed in
5 subsection 23-23.11(a) and follow the acknowledgement procedure in subsection 23-23.11(b)
6 prior to issuing a building permit for the installation.

7 **23-23.7-12. Financial hardship permits.** – Any person, other than those regulated by
8 section 23-23.7-2, who purchased and installed a wood-fired hydronic heater other than a
9 certified Phase 1 or 2 unit on the lot of a residential dwelling prior to January 1, 2012, whose
10 income, when combined with the income of all other members of his or her household, is less
11 than two hundred fifty percent (250%) of the federal poverty level may continue to operate or use
12 said OHH wood stove until May 1, 2018.

13 **23-23.7-13. Common law rights preserved.** – The operation or use of an outdoor wood-
14 fired hydronic heater in any manner that creates a nuisance or interferes with the health, safety, or
15 welfare of any person is prohibited. All public or private rights of action in nuisance, negligence,
16 or otherwise are preserved.

17 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY - OUTDOOR WOOD-FIRED HYDRONIC
HEATERS

- 1 This act would regulate the sale and installation of outdoor wood-fired hydronic heaters.
- 2 This act would take effect upon passage.

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