

**ATHOL BOARD OF HEALTH
OUTDOOR HYDRONIC HEATER REGULATIONS**

1. AUTHORITY

These regulations are adopted by the Town of Athol Board of Health, as authorized by Massachusetts General Laws, Chapter 111, section 31, and 122 and 310 CMR 11.02 and Massachusetts General Laws, Chapter 111, section 142A, 142B, any regulation in which specific reference to 310 CMR 7.52 is cited.

2. OUTDOOR HYDRONIC HEATERS-APPLICABILITY

This regulation applies to any person who owns, operates, manufactures, supplies, distributes or sells, retails or any person who intends to distribute or sell, or market an outdoor hydronic heater for use in the Town of Athol except outdoor hydronic heaters rated with a heat input of 1 MMBtu/hr or greater that are subject to the Comprehensive Plan Application provisions at 310 CMR 7.02(5) (a) 4.

3. DEFINITIONS:

Existing unit or **Existing outdoor hydronic** heater means an outdoor hydronic heater that is sold, installed and/or operated at the intended location of use in the Town of Athol prior to January 22, 2008.

Outdoor hydronic heater or heater means 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.

4. REQUIREMENTS:

- (a) All use, sale, and distribution of Outdoor Hydronic Heaters in the town of Athol must be in accordance with 310 CMR 7.26(50) through (54) Outdoor Hydronic Heaters.
- (b) In addition to the provisions contained in 310 CMR 7.26(50)-(54):
 - (1) A permit, from the Athol Board of Health, is required to install and operate an outdoor hydronic heater.
 - (2) All operators of existing outdoor hydronic heaters shall register for its continued operation within 60 days of passage of these regulations or shall cease operation until a permit is obtained from the Athol Board of Health.
 - (3) Prior to completion of a sale or transfer of any real property, all existing and/or installed outdoor hydronic heaters that do not meet operating criteria and standards set forth in 310 CMR 7.26(52)(a) shall be replaced, removed, or rendered permanently inoperable.

- a. Exclusion if the transfer of residential real property is between the following relationships:
 1. between current spouses;
 2. between parents and their children;
 3. between full siblings; and
 4. where the grantor transfers the real property to be held in a revocable or irrevocable trust, where at least one of the designated beneficiaries is of the first degree of relationship to the grantor.

5. **VIOLATIONS**

It shall be the responsibility of the permit holder, when applicable and or the property owner to ensure compliance with all sections of these regulations pertaining to the use of outdoor hydronic heaters.

(a) **For violations of these regulations:**

1. In the case of the first violation, a fine of \$100.
2. In the case of a second violation, a fine of \$200.
3. In the case of a third violation, a fine of \$300.
4. **In the case of a fourth and subsequent violations, a fine of \$300 and the hydronic permit/or registration to operate shall be suspended for a period of one year (365 consecutive calendar days).**

(b) Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the outdoor hydronic heater permit/or registration to operate for a period of thirty (30) consecutive days. The Athol Board of Health shall provide a notice of suspension to the permit holder or registered owner. If the permit holder or registered owner is aggrieved by a decision of any agent or employee of the Athol Board of Health or to whom a violation notice or order has been served may petition for a hearing before the Athol Board of Health. Such a petition must be filed in writing at the main office of the Athol Board of Health within seven (7) days after the violation notice or order was served. Within ten (10) days of receiving a petition, the Athol Board of Health shall inform the petitioner of the dates, time and place of the hearing and their right to inspect and copy any records that the Athol Board of Health might have concerning the matter being heard. If the permit holder, registered owner, or its business agent petitions for a hearing, the suspension issued will be temporarily sustained until the outcome of the hearing has been determined. After the hearing, the Board may affirm or reverse the decision of the agent or employee in whole or in part. The decision shall be in writing and shall state the facts on which it is based. Any person aggrieved by the final decision of the Athol Board of Health with respect to any order issued under the provisions of these regulations may seek relief in a court of competent jurisdiction in the Commonwealth.

(c) **Non-criminal Disposition:** Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day on which any violation exists shall be deemed to be a separate offense.

6. ENFORCEMENT

This regulation shall be enforced by the Athol Board of Health and/or its designated agent(s). Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Athol Board of Health.

7. SEVERABILITY

If any paragraph or provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected, thereby but shall continue in full force and effect.

8. EFFECTIVE DATE

These regulations shall be effective as of June 1, 2009

Originally passed on September 23, 2008

Amended on October 27, November 25, 2008, and April 28, 2009

Joan E. Hamlett, Chair
Athol Board of Health

Date

Norma M. Purple, Vice Chair
Athol Board of Health

Earle Baldwin, Member
Athol Board of Health