

ORDINANCE NO. 1028031

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ADDING CHAPTER 19.08 TO THE MARIN COUNTY CODE PERTAINING TO THE REDUCTION OF AIR POLLUTION BY REGULATING THE INSTALLATION OF WOOD BURNING APPLIANCES AND THE REMOVAL AND OPERATION OF NON-CERTIFIED WOOD BURNING APPLIANCES.

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN DOES ORDAIN AS FOLLOWS:

SECTION I. Chapter 19.08 is added to the Marin County Code to read as follows:

“CHAPTER 19.08 INSTALLATION OF WOOD BURNING APPLIANCES, REMOVAL AND OPERATION OF NON-CERTIFIED WOOD BURNING APPLIANCES

19.08.010 PURPOSE

19.08.020 FINDINGS

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19.08.070 REPLACEMENTS FOR NON-COMPLIANT APPLIANCES

19.08.080 REMOVAL OF NON-CERTIFIED WOOD HEATERS UPON REMODEL

19.08.090 NEW CONSTRUCTION, ADDITIONS OR REMODELS

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INSERTS

19.08.110 PERMIT REQUIREMENTS FOR REPLACEMENT OF WOOD-BURNING APPLIANCES

19.08.120 PROHIBITED FUELS

19.08.130 VIOLATION

19.08.010 PURPOSE

The purpose of this chapter is to improve air quality within Marin County by (1) educating the public regarding the impacts of burning wood and the various types of wood-burning appliances; (2) by regulating the type of wood-burning appliances that may be installed and maintained within the County; and (3) by banning the use of non-certified burning appliances after July 1, 2008.

19.08.020 FINDINGS

The Board of Supervisors of the County of Marin finds that the State Air Resources Board (ARB) adopted a particulate matter (PM10) Ambient Air Quality Standard (AAQS) in December 1982, and levels for the PM10 AAQS were selected pursuant to California Code of Regulations, Title 17, and Section 70200 to protect the health of people who are sensitive to exposure to particulate matter.

Research indicates that wood smoke is a contributor to PM10 levels and poses significant health risks to the public.

The Board of Supervisors desires to lessen this risk to human health and the environment caused by pollution from wood-burning appliances.

Therefore a need exists to adopt regulations that apply to wood-burning combustion emissions.

19.08.030 DEFINITIONS

‘Bay Area Air Quality Management District’

Is the air quality agency for the San Francisco Bay Area pursuant to California Health and Safety Code.

‘EPA’

Is the United States Environmental Protection Agency

‘EPA Certified Wood Heaters’

Is any wood heater that meets the standard in Title 40 Part 60.530 Subpart AAA Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations. An EPA certified wood heater may be freestanding, built-in, or an insert within a fireplace.

‘Fireplace’

Is any permanently installed masonry or factory-built wood-burning appliance designed to be used with an air-to-fuel ratio greater than or equal to 35 to 1.

‘Garbage’

Is all solid, semi-solid and liquid wastes generated from residential, commercial and industrial sources, including trash, refuse, rubbish, industrial wastes, asphalted products, manure, vegetable or animal solids, and semi solid wastes.

‘Gas Fireplace’

Is any masonry or factory-built fireplace in which a device that has been designed to burn natural gas or liquefied petroleum gas in a manner that simulates the appearance of burning wood has been permanently installed so the burner pan and associated equipment are affixed to the masonry or metal base of the fireplace.

‘Insert’

Is any wood heater designed to be installed in an existing masonry or factory-built fireplace.

‘Paints’

Are all exterior and interior house and trim paints, enamels, varnishes, lacquers, stains, primers, sealers, under-coatings, roof coatings, wood preservatives, shellacs, and other paints or paint-like products.

‘Paint Solvents’

Means all original solvents sold or used to thin paints or clean up painting equipment.

‘Pellet-Fueled Heater’

Is any appliance that operates exclusively on solid fuel pellets.

‘Solid Fuel’

Is wood or any other non-gases or non-liquid fuel.

‘Treated Wood’

Is wood of any species that has been chemically impregnated, painted or similarly modified to improve resistance to insects or decay.

‘Waste Petroleum Product’ is any petroleum product other than fuels that has been refined from crude oil, and has been used or has been contaminated with physical or chemical impurities

‘Wood-Burning Appliance’ is a fireplace, wood heater, or pellet-fired heater or similar device burning solid fuel used for aesthetic or space-heating purposes.

‘Wood Heater’ is an enclosed, wood-burning appliance that is not a fireplace capable of and intended for space heating that meets all the following criteria:

An air-to-fuel ratio in the combustion chamber averaging less than 35-to-1 as determined by the test procedures prescribed and approved by the Chief Building Official.

A usable firebox volume less than 20 cubic feet (0.57 cubic meters);

A minimum burn rate less than 11 lb/hr (kg/hr); and

A maximum weight of less than 1,760 lbs (800kg). For the purpose of this ordinance, fixtures and devices that are normally sold separately, such as flue pipe, chimney and masonry components that are not an integral part of the appliance or heat distribution ducting do not count as part of the appliance weight.

‘Wood Stove’ is a freestanding wood heater

19.08.040 EXEMPTIONS

Wood-burning appliances specifically designed for cooking, outdoor fireplaces, existing fireplaces, gas and pellet fueled appliances, permanently installed or dedicated gas log fireplaces, shall be exempt from all provisions of this chapter. The Chief Building Official may approve an alternate wood burning appliance, provided the Chief Building Official finds that the proposed alternate appliance meets or exceeds the standards established for a EPA phase II certified wood heater.

19.08.050 EDUCATION PROGRAM

The County through the Chief Building Official shall establish and maintain an on-going program to educate the public on the provisions of this ordinance and the health impact of wood smoke. The education program shall identify the various types of smoke reduction methods, including use of cleaner burning pellet stoves, manufactured firelogs, and gas fireplaces. The County will educate the public on fireplace and woodstove maintenance and encourage cleaner-burning alternatives such as gas-fueled devices, pellet stoves and proper wood burning techniques to build hotter, more efficient fires.

19.08.060 VOLUNTARY CURTAILMENT

The County shall endeavor to provide public notification requesting that residents curtail the burning of wood during poor air quality episodes as determined by the Bay Area Air Quality Management District. Methods to notify the public could include a written notice published in local newspapers, email notification by the Bay Area Air Quality Management District and oral notices presented by radio, telephone or television.

19.08.070 REPLACEMENTS FOR NON-COMPLIANT APPLIANCES. This section applies to both residential and commercial properties.

It shall be unlawful to install a replacement wood-burning appliance that is not one of the following:

- A pellet-fueled appliance
- An EPA Phase II-certified wood appliance manufactured after 1990
- A dedicated gas log fireplace or gas stove

The conversion of a gas fireplace to burn wood shall constitute the installation of a wood-burning appliance and shall be subject to the requirements of this chapter.

19.08.080 REMOVAL OF NON-CERTIFIED WOOD HEATERS UPON REMODEL

A non-EPA Phase II-Certified wood heater, freestanding or insert, shall be removed, rendered inoperable or replaced with a compliant appliance, when a remodel or addition requiring a building permit exceeds 500 square feet.

19.08.090 NEW CONSTRUCTION, ADDITIONS OR REMODELS

Non-EPA Phase II-Certified wood burning heaters or woodburning fireplaces will not be allowed to be added in new construction, additions or remodels of any size. Pellet-fueled and gas appliances will be allowed.

19.08.100 OPERATION OF NON-COMPLIANT WOOD STOVES AND INSERTS

Effective July 1, 2008, it shall be unlawful to use all non EPA Phase II-certified wood heaters, freestanding or insert, on any property within the un-incorporated area of Marin County. After that date all noncompliant wood stoves and inserts must be removed or rendered inoperable. The Chief Building Official may grant an exception to this section in the case of hardship. Examples of hardships include the following: a residential sole source of heat; a temporary sole source of heat; an inadequate alternative source of heat.

19.08.110 PERMIT REQUIREMENTS FOR REPLACEMENT OF WOOD-BURNING APPLIANCES

Any person who plans to replace a wood-burning appliance must submit documentation to the Building and Safety Division, with a building permit application, demonstrating that the appliance is in compliance with this ordinance as listed in section 19.08.070.

19.08.120 PROHIBITED FUELS

Use of any of the following fuels in a wood-burning appliance is prohibited

- Garbage
- Treated wood
- Plastic products
- Rubber products
- Waste petroleum products
- Paints
- Paints solvents
- Coal
- Glossy or colored paper
- Particleboard
- Salt-water driftwood

This section shall not apply to products designed specifically for use as fuel in a wood-burning appliance.

19.08.130 VIOLATION

Violation of any provision of this Chapter may be enforced pursuant to Chapter 1.05 of the Marin County Code.

SECTION II Severability

If any article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The Board of Supervisors of the County of Marin hereby declares that it would have adopted each article, section, and sentence thereof, irrespective of the fact that any one or more of said provision be declared unconstitutional or invalid.

SECTION III. EFFECTIVE DATE. This ordinance shall take affect on the 31st day following its adoption and shall apply to all permits applied for and issued on or after that date, and shall be published in the Marin Independent Journal, once before the expiration of fifteen (15) days after its passage.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, held this _____ day of _____ 2003, by the following vote:

AYES:

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

Clerk