

TOWN OF WARREN
PUBLIC ORDINANCE WARNED
HEARING

There will be public meeting at the Warren Selectboard regular Meeting on May 10th 2016 at 7:00 PM, at the Warren Municipal Building to discuss and take comment on this ordinance for adoption.

Town of Warren Solid Fuel Burning Appliance Ordinance

I. **Biennial Inspection Requirement:** All solid fuel-burning appliances in public buildings must have a CSIA [Chimney Safety Institute of America] Level 2 inspection [see definition at: http://www.csia.org/homeowner-resources/chimney_inspections.aspx] and compliance certification at least every two years, or more frequently if more frequent inspections are specified by the installation/operation/maintenance system manual for the particular solid fuel-burning appliance. Inspection and certification shall be performed by a Vermont Division of Fire Safety licensed and insured chimney sweep. The results of such inspection must be filed *within thirty days of the date of such inspection* with the *Chief or Deputy Chief of the Town of Warren Fire Department*. *Inspection and certification reports filed hereunder are public records which are open for inspection.* ~~Furthermore,~~ In the event that a solid fuel-burning appliance[s] fails the inspection, it shall not be used until either:

- i. corrective actions are taken to repair the appliance and it passes a follow up inspection by a Vermont Division of Fire Safety licensed and insured chimney sweep; or
- ii. the appliance is cleaned, permanently sealed and converted into a decorative element, or equivalent action to prevent use.

II. **Violations or Failures to Comply: Miscellaneous**

- a. **Civil Enforcement.** A violation of this Ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. § 1974a and § 1977 et seq. Anyone convicted of a violation or failure to comply with any of the provisions of this Ordinance, including the failure to make a required report *within the time specified herein* or to pay any fee, may be subject to a civil penalty of not more than \$500. Each day a violation continues shall constitute a separate offense.
- b. **Appeals of Fees** the owner of a solid fuel-burning appliance fined under subsection a. above shall have the right to *the imposition of a fine* to the Town of Warren Select Board. An appeal must be filed within 14 days of receipt of the fee or violation notice. Appeals will be heard at a warned, regularly scheduled meeting of the Select Board on a date to be determined by the Select Board. Once an appeal of a violation has been properly filed with the Town of Warren,

no further fees for that violation will be assessed until such time as the appeal has been heard. In the event such appeal is not satisfactorily resolved before the Select Board, civil enforcement proceedings may be brought by the Town pursuant to 24 V.S.A. § 1974(a).

- c. Enforcement before the Judicial Bureau In the event owner of a solid fuel-burning appliance violates this Ordinance and fails to either pay *a fine* or to take an appeal as hereinabove described, civil enforcement proceedings may be brought pursuant to 24 V.S.A. § 1974(a).
- d. Liability Limit. The Town's regulation of solid fuel-burning appliance shall not constitute acceptance by the Town for any liability to maintain any appliances or to take any action in connection therewith.
- e. Severance Clause. If any section, sentence, or phrase of this Ordinance shall for any reason be held invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect or impair the validity of any other section or remaining portion of this Ordinance.
- f. *Remedies Not Exclusive. In addition to ordinance violation enforcement as provided in 24 VSA 1974(a), the Town may seek injunctive relief against any person or property whose continuing violation of this ordinance constitutes a hazard to public health and safety.*

III. Definitions. As used in this ordinance,

a. **"public building"** means:

(1)(A) a building owned or occupied by a public utility; hospital; school; house of worship; convalescent center or home for elders or persons who have an infirmity or a disability; nursery; kindergarten; or child care;

(B) A building in which two or more persons are employed, or occasionally enter as part of their employment or are entertained, including private clubs and societies;

(C) A cooperative,[or] condominium *or timeshare*;

(D) A building in which people rent accommodations, whether overnight or for a longer term;

(E) A restaurant, retail outlet, office or office building, hotel, tent, or other structure for public assembly, including outdoor assembly, such as a grandstand;

(F) A building owned or occupied by the Town of Warren.

(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a **"public building"** for purposes of this subsection. For purposes of this subsection, a "person" does not include an individual who is directly related to the employer and who resides in the employment-related building.

(b) The term **"public building"** does not include:

(1) An owner-occupied single family residence, unless used for a purpose described in subsection (a) of this section;

(2) a family residence registered as a child care home under chapter 35 of Title 33, or specifically exempted from registration by [33 V.S.A. § 3502\(b\)\(1\)](#);

(3) Farm buildings on a working farm or farms. For purposes of this subchapter and subchapter 3 of this chapter, the term “working farm or farms” means farms with fewer than the equivalent of 10 full-time employees who are not family members and who do not work more than 26 weeks a year. In addition, the term means a farm or farms:

(A) Whose owner is actively engaged in farming.

(B) If the farm or farms are owned by a partnership or a corporation, one which includes at least one partner or principal of the corporation who is actively engaged in farming.

(C) Where the farm or farms are leased, the lessee is actively engaged in farming. The term “farming” means:

(i) The cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops;

(ii) The raising, feeding, or management of livestock, poultry, equines, fish, or bees;

(iii) The production of maple syrup;

(iv) The operation of greenhouses;

(v) The on-site storage, preparation, and sale of agricultural products principally produced on the farm. Notwithstanding this definition of farming, housing provided to farm employees other than family members shall be treated as rental housing and shall be subject to the provisions of this chapter. In addition, any farm building which is open for public tours and for which a fee is charged for those tours shall be considered a **public building**.

(4) A single family residence with an accessory dwelling unit as permitted under [24 V.S.A. § 4406\(4\) \(D\)](#).

(c) For the purpose of this subchapter, subchapter 3 of this chapter, and chapter 4 of Title 21, the words “premises,” “building,” and “structure,” or any part thereof shall mean “**public building**” as defined in this section.

b. “**Solid fuel**” means wood, coal, charcoal or other fuel which is neither liquid nor gas.

c. “**Solid Fuel Burning Appliance**” means a chimney-connected device that burns solid fuel designed for purposes of heating, cooking, *illumination, decoration or ambiance* These appliances include wood heaters and fireplace inserts.