

CITY OF CHUBBUCK, IDAHO

ORDINANCE NO. 403

AN ORDINANCE OF THE CITY OF CHUBBUCK, IDAHO, ENACTING CHAPTER 8.36 CLEAN AIR STANDARDS TO PROVIDE FOR REGULATION OF EMISSION FROM SOLID FUEL AND REFUSE BURNING REPEALING PRIOR CONFLICTING ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CHUBBUCK, IDAHO:

Section 1. Intent.

The purpose of this Chapter is to protect air quality resources vital to the public health, safety, and welfare of Bannock County by controlling emissions from solid fuel and refuse burning. This Chapter is promulgated under the authority of the Idaho Constitution, Article 12, Section 2, and Idaho Code §§ 31-714 and 31-801.

Section 2. Chapter 8.36. The following Chapter 8.36 shall be added to the Chubbuck Municipal Code:

Chapter 8.36 Clean Air Standards

8.36.010 Applicability. This Chapter shall apply to all areas lying within the city limits of Chubbuck, as in effect or as changed from time to time.

8.36.020 Definitions. For the purpose of this Chapter, the following terms, phrases, words and derivations all have the meanings given herein. The word "shall" is always mandatory and not merely directory.

A. Air pollution. The presence in the outdoor atmosphere of an contaminate of combinations thereof in such quality or of such nature and duration and under such conditions as would be injurious to human health or welfare, to plant or animal life, or to property, or to interfere unreasonable with the enjoyment of life or property.

B. Building. Any structure, dwelling, office, industrial plant, garage or barn, whether publicly or privately owned or any other structure as defined by the

Uniform Building Code as adopted by Chapter 15.04 of the Chubbuck Municipal Code.

C. **Burn Down.** That period of time following an air pollution alert required for the cessation of combustion within solid fuel heating appliances or any outdoor fires or burning or incineration included within this ordinance.

D. **Clean Burning Appliance.** A solid fuel heating appliance that has been certified as a Phase II clean burning appliance by either the Oregon Department of Environment Quality or the United States Environmental Protection Agency and has been placed on the list of approved clean burning appliances by the United States Environmental Protection Agency.

E. **Economic Hardship.** Means fifty percent (50%) or less of Bannock County's median income as established by the U.S. Department of Housing and Urban Development.

F. **Fireplace.** Means a residential solid fuel burning device with an air-to-fuel ratio of greater than thirty (30) which is a permanent structural feature of a building. A fireplace is made up of a concealed masonry or metal flue and a masonry or metal firebox enclosed in decorative masonry or other building materials. A residential solid fuel burning device which is freestanding or which is installed into an existing "fireplace" opening is not included in the definition of "fireplace."

G. **Heat Output.** The British Thermal Unit (BTU)/hour output of a solid fuel heating appliance measured under the testing criteria as adopted by the Bannock County Development Services Department.

H. **Opacity.** The ability to obstruct the transmission of light and is expressed as a percent.

I. **Open Burning.** Means the combustion of any material not contained in a heating appliance or incinerator.

J. **Particulate matter.** Any gas-borne particles resulting from incomplete combustion consisting predominately, but not exclusively, of carbon and other combustible matter.

K. **Person.** Any individual, firm, partnership, association, corporation, company, organization or governmental entity.

L. **Phase II stove.** A solid fuel heating appliance designated by the United States Environmental Protection Agency as a Phase II certified clean air

stove or any stove which is manufactured by a reputable manufacturer and certified by the manufacturer to meet such standards.

M. Refuse. All solid waste, garbage, and rubbish including but not limited to cardboard, plastic, rubber, styrofoam, petroleum products, food stuff, Christmas trees, yard debris, or chemically treated wood.

N. Refuse Incinerator. Any device designed or operated to reduce the volume of refuse. Natural gas-fired pathological incinerators are excluded.

O. Sole Source. Means one or more solid fuel heating devices which constitute the only source of heat in a building for the purpose of space heating. No solid fuel heating device(s) shall be the sole source of heat if the building is equipped with a permanently installed furnace or heating system designed to heat the building that is connected or unconnected from its energy source, utilizing oil, natural gas, electricity or propane. No permanently installed furnace or heating system shall be removed or disconnected after the effective date of this ordinance unless replaced with a comparable system. In no event shall a permanently installed furnace or heating system be removed or disconnected if only a solid fuel heating device remains as the sole source of space heating for the building.

P. Solid Fuel Heating Appliance. An enclosed device designed for solid fuel combustion that meets all of the following criteria:

- 1) an air-to-fuel ratio averaging less than thirty-five to one (35 to 1);
- 2) firebox volume less than twenty (20) cubic feet;
- 3) minimum burn rate less than five (5) kilograms per hour; and
- 4) maximum weight of less than eight hundred (800) kilograms.

Q. Weighted Average. The weighted average of the test results of the distribution of the heating needs in the City of Chubbuck as calculated by the Building Department of the City of Chubbuck.

O. Air Quality Designations and Alert Criteria:

- 1) The quality of Chubbuck's air shall be determined by the monitoring of pollutant levels with equipment and methods approved by the Idaho State Department of Environmental Quality.

- 2) The quality of Chubbuck's air shall be designated according to the following table where "PM-10" indicates particulate matter with an aerodynamic diameter less than or equal to ten (10) microns:

Health Effect Designation -----	PM-10 Concentrations 24-hour (ug/m ³) -----
Good	0-50
Moderate	51-150
Unhealthful	151-350
Very unhealthful	351-420
Hazardous	> 420

- 3) In order to prevent the existence of air quality that is unhealthful or the deterioration of moderate air to an unhealthful level, an air pollution "alert" will be declared whenever the Idaho Department of Environmental Quality measures levels of PM-10 concentration exceeding 120 micrograms per cubic meter (ug/m³) and forecasts air stagnation conditions continuing for at least 24 hours.

8.36.030 Public Notification. Whenever air pollution alert conditions are met, local print, radio, and television news media will be notified. Announcements of the existence of an air pollution "alert" will be made by the news media during regularly scheduled broadcasts and in the official newspaper of Bannock County. Notice of air pollution "alert" conditions shall be posted by the City Clerk or the Clerk's designee in the same manner as notice of city council meetings.

8.36.040 Burning Solid Fuel or Refuse.

A. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.

B. No person shall cause or allow a refuse incinerator to be operated contrary to the design specifications and manufacturer's instructions.

C. Visible emissions from residential solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA method 9, except for the following.

- 1) An initial fifteen minute start up period.
- 2) A period of fifteen minutes in any three hour period in which emissions may exceed the 20% opacity limitation for refueling.

D. No person shall cause or allow railroad ties, treated wood or other carcinogens, or material treated with carcinogens to be burned.

8.36.050. Air Quality Alert/Additional Restrictions. At the onset and during the pendency of a declared air quality "alert", the following additional restrictions apply.

A. No person shall cause or allow, after a three (3) hour "burn down", the operation of a solid fuel heating appliance or open fireplace, except those which are the sole source of heat for the entire residence and registered with the City Building Office or those having no visible emissions and an exemption has been granted by the City Building Department and an exemption decal is displayed and visible from a place of public access.

B. No person shall cause or allow the operation of a solid waste incinerator.

C. No person shall cause or allow open burning of refuse or solid fuel.

8.36.060 Air Quality Alert Exemptions.

A. By December 1, 1994, all sole source residential solid fuel burning devices must be registered with the Chubbuck Building Department in order to be exempt during mandatory no-burn periods.

B. The City Building Officer, or the Building Officer's designee shall grant exemptions from this Chapter if it is determined that:

- 1) a solid fuel heating appliance is the sole source of heat for the structure in which it is situated; or
- 2) using alternative heating would cause an unreasonable economic hardship; or
- 3) the solid fuel heating appliance is listed by Department of Environmental Quality/Environmental Protection Agency as a clean burning appliance.

C. Any person denied an exemption under this Chapter shall be provided, at the option of the applicant for the exemption, a hearing before the Chubbuck City Council.

D. Any building constructed after the effective date of this Chapter shall not be eligible for an exemption under subsections 1 and 2 above.

E. It shall be a violation of these rules for any person to operate a residential solid fuel burning device or fireplace during the mandatory no-burn periods except as stated in this Section.

8.36.070 Solid Fuel Heating Appliance Permits.

A. It shall be unlawful for any person to install a solid fuel heating appliance in any new or existing building without first obtaining a solid fuel heating appliance permit from the City Building Department.

B. It shall be unlawful on or after December 1, 1993 to sell or install any non-Phase II stove to or for any resident or entity within the City of Chubbuck.

8.36.080 Appeal of Decision of Board. A decision of the Chubbuck City Council on a denial shall be final and conclusive. Appeal from a decision of the City Council must be made to the Bannock County District Court.

8.30.090 Minimum Standards for Clean Burning Appliances.

A. In no event shall a solid fuel heating appliance permit be issued for any solid fuel heating appliance which has a weighted average particulate emission greater than:

1. For a new clean burning solid fuel heating appliance with a minimum heat output of less than 40,000 BTU per hour and tested pursuant to procedures approved by the Building Department.
 - a. 7.5 grams per hour for a non-catalytic solid fuel heating appliance.
 - b. 4.1 grams per hour for a catalytic solid fuel heating appliance.
2. Clean burning solid fuel heating appliances with a minimum heat output of greater than 40,000 BTU per hour shall not exceed an average particulate emission standard equal to the sum of 8.0 grams per hour plus 0.2 grams per hour for each 1,000 BTU per hour heat output.

3. **Permits will be issued for any other solid fuel heating appliance officially exempted by the Environmental Protection Agency from the above requirements.**

8.36.100 Coordination with Chapter 8.34. Chapter 8.34, Burning of Materials, and this chapter shall be interpreted consistently with each other. No permit or situation shall be allowed under one chapter if banned by the other.

8.36.110 Penalty. A violation of any of the provisions of this Chapter or the failure or omission to perform any duty imposed by the provision of this Chapter is hereby declared unlawful and punishable as a misdemeanor.

ADMINISTRATIVE PROVISIONS

Section 1. Repeal of Conflicting Ordinances. The provisions of any Ordinance of the City of Chubbuck, Idaho, and any provision of the Chubbuck Municipal Code which are in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 2. Severability. If any provision of this ordinance is held invalid, for any reason, by any court of competent jurisdiction, such holding shall not affect the validity or enforceability of any of the remaining provisions.

Section 3. Effective Date. The rule requiring an ordinance to be read on three separate days, one of which shall be a reading in full, is hereby dispensed with, and this Ordinance shall become effective upon its passage, approval and publication as provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF CHUBBUCK, IDAHO, this 23rd day of NOVEMBER, 1993.


MAYOR

ATTEST:


CITY CLERK