

AN ORDINANCE AMENDING TITLE 5 OF THE ADA COUNTY CODE TO CREATE A NEW CHAPTER 10 ENTITLED THE ADA COUNTY CLEAN AIR ORDINANCE, TO PUT INTO EFFECT REQUIREMENTS FOR WHEN PERSONS MAY BURN SOLID FUEL AND/OR REFUSE DURING DECLARED AIR POLLUTION ALERTS; TO REPEAL TITLE 7, CHAPTER 6, ENTITLED ADA COUNTY SOLID FUEL HEATING APPLIANCE ORDINANCE AND REENACT SAID ORDINANCE WITH AMENDMENTS AS PART OF TITLE 5, CHAPTER 10 OF THE ADA COUNTY CODE; AND TO AMEND TITLE 5, CHAPTER 2, SECTION 10 TO ADD THE REQUIREMENT THAT DURING TIMES OF AIR POLLUTION ALERTS PERSONS HOLDING PERMITS ALLOWING OUTDOOR BURNING SHALL BE SUBJECT TO THE REQUIREMENTS OF THE ADA COUNTY CLEAN AIR ORDINANCE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO, THAT TITLE 7, CHAPTER 6 OF THE ADA COUNTY CODE BE REPEALED AND BE REENACTED WITH AMENDMENTS AS PART OF TITLE 5, CHAPTER 10 OF THE ADA COUNTY CODE; THAT TITLE 5, CHAPTER 2, SECTION 10 OF THE ADA COUNTY CODE BE AMENDED; AND THAT TITLE 5, OF THE ADA COUNTY CODE BE AMENDED AS FOLLOWS:

TITLE 5, CHAPTER 2, SECTION 10

BURNING, OUTDOOR FIRES AND INCINERATION

Section 5-2-10D: Prohibited Burning, shall be amended to add a new paragraph 3 as follows:

- D. 3. Notwithstanding the provisions of any section of this Chapter, no person shall allow, suffer, cause or permit the burning of any material which violates an air pollution alert as specified in Title 5, Chapter 10, of the Ada County Code known as the Ada County Clean Air Ordinance.

TITLE 5

PUBLIC HEALTH AND SAFETY

Title 5: Public Health and Safety, shall be amended to add a new Chapter 10 as follows:

## CHAPTER 10

### CLEAN AIR

5-10-1: **SHORT TITLE:** This Chapter shall be known and cited as the Ada County Clean Air Ordinance.

5-10-2: **AUTHORITY AND PURPOSE:** The purpose of this Chapter is to protect air quality resources vital to the public health, safety, and welfare of Ada County residents and the economic future of Ada 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.

5-10-3: **APPLICABILITY:** This Chapter shall apply to all areas of unincorporated Ada County with the following areas being specifically excluded from this Chapter:

1. All that area of Ada County lying to the south of the Boise Base Line. The Boise Base Line being that line which runs from the southwest corner of section thirty-one (31), township one (1) north, range one (1) west, east to the southeast corner of section thirty-three (33), township one (1) north, range four (4) east.
2. That area of southwest Ada County that lies south of Amity Road and west of Cloverdale Road to the point where Cloverdale Road intersects the Boise Base Line.
3. All areas of Ada County that are at 3,500 feet or above mean sea level.

A copy of a map showing the areas to be excluded from this Chapter is available from the Clerk of the Board of Ada County Commissioners.

5-10-4: **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.

**AIR POLLUTION** The presence in the outdoor atmosphere of any contaminate or 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 unreasonably with the enjoyment of life or property.

**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 2, Title 7, Ada County Code.

**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.

**CLEAN BURNING APPLIANCE**

A solid fuel heating appliance that has been certified as clean burning by either the Oregon Department of Environmental Quality or the United States Environmental Protection Agency and has been placed on the list of approved clean burning appliances maintained by Ada County Development Services.

**ECONOMIC HARDSHIP**

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

**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".

**HEAT OUTPUT**

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

**OPEN BURNING**

Means the combustion of any material not contained in a heating appliance or incinerator.

|                                 |   |
|---------------------------------|---|
| PARTICULATE<br>MATTER           | Any gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.  |
| PERSON                          | Any individual, firm, partnership, association, corporation, company, organization or governmental entity.  |
| 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.   |
| REFUSE<br>INCINERATOR           | Any device designed or operated to reduce the volume of refuse. Natural gas-fired pathological incinerators are excluded.   |
| 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.  |
| SOLID FUEL                      | Any form of untreated wood or coal.   |
| SOLID FUEL<br>HEATING APPLIANCE | An enclosed device designed for solid fuel combustion that meets all of the following criteria: <ul style="list-style-type: none"> <li>a) an air-to-fuel ratio averaging less than thirty-five to one (35-to-1);</li> <li>b) firebox volume less than twenty (20) cubic feet;</li> <li>c) minimum burn rate less than five (5) kilograms per hour; and</li> <li>d) maximum weight of less than eight hundred (800) kilograms.</li> </ul> Explicitly excluded are furnaces, boilers, cook stoves, and open fireplaces. |
| WEIGHTED AVERAGE                | The weighted average of the test results of the distribution of the heating needs in Ada County as calculated by the Building Department of Ada County.   |

5-10-5: AIR QUALITY DESIGNATIONS AND ALERT CRITERIA:

- A. The quality of Ada County's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho State Department of Environmental Quality.
- B. The quality of Ada County'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:

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

- C. In order to prevent the existence of air quality that is unhealthful, an air pollution "alert" will be declared whenever the Idaho Department of Environmental Quality measures levels of PM 10 concentrations exceeding 100 micrograms per cubic meter (ug/m<sup>3</sup>) and forecasts air stagnation conditions continuing for at least 24 hours.

5-10-6: 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 all editions of the official newspaper of Ada County.

5-10-7: 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.

5-10-8: 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, unless an exemption has been granted by the Building Department in Ada County 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.

5-10-9: AIR QUALITY ALERT EXEMPTIONS:

- A. Ada County Development Services shall grant exemptions from this Chapter if it is determined by Ada County Development Services 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 Ada County Development Services as a clean burning appliance.
- B. Any person denied an exemption under this Chapter shall be provided, at the option of the applicant for the exemption, a hearing before the Building Board of Appeals as created at Chapter 1, Title 7, Ada County Code.
- C. Any building constructed after the effective date of this Chapter shall not be eligible for an exemption under subsections 1 and 2 above.

5-10-10: SOLID FUEL HEATING APPLIANCE PERMITS:

- A. It shall be unlawful for any person in the unincorporated areas of Ada County to install a solid fuel heating appliance in any new or existing building without first obtaining from Ada County Development Services a solid fuel heating appliance permit.
- B. It shall be unlawful on or after July 1, 1987, for any person in unincorporated Ada County to:

advertise for sale, offer to sell, or sell for installation in any new or existing building, a solid fuel heating appliance which is not a clean burning appliance.

5-10-11: ISSUANCE OF SOLID FUEL HEATING APPLIANCE PERMITS:

- A. No solid fuel heating appliance permit shall be issued by the Director of Ada County Development Services or his designee for the installation of a solid fuel heating appliance which is not a clean burning appliance.
- B. Ada County Development Services shall maintain a list of clean burning appliances.

5-10-12: DENIAL OF PERMIT:

- A. Upon a showing of sufficient cause to believe that grounds exist for the denial of the permit, the Director of Ada County Development Services or his designee may deny an application for a permit by sending through the regular mail to the address on the application a written notice containing the grounds for said denial and of the applicant's opportunity to appeal said denial to the Building Board of Appeals as created at Chapter 1, Title 7, Ada County Code.
- B. Failure of a person to actually receive a notice sent shall not invalidate the denial.
- C. The applicant, upon receiving notice of the denial, may appeal said denial by making application with Ada County Development Services for a hearing before the Building Board of Appeals within ten (10) working days of receipt of the above notice.

5-10-13: DENIAL HEARING AND DETERMINATION BY BOARD: At any hearing before the Building Board of Appeals pursuant to this Chapter, applicant may present evidence, call witnesses, and be represented by counsel. Within ten (10) working days after the date of the hearing, the Building Board of Appeals shall after making appropriate written findings either:

- a. Uphold the denial by the Director of Development Services or his designee; or
- b. Allow the issuance of the permit or exemption with modifications or conditions as the Board may

impose, such modifications or conditions to be reasonably related to the use of the permit or exemption.

5-10-14: **APPEAL OF DECISION OF BOARD:** A decision of the Building Board of Appeals on a denial shall be final and conclusive. Appeal from a decision of the Building Board of Appeals must be made to the District Court of the State of Idaho, in and for the County of Ada.

5-10-15: **MINIMUM STANDARDS FOR CLEAN BURNING APPLIANCES:**

- A. In no event shall the standards for clean burning solid fuel heating appliances, as adopted by rule and regulation by the Building Department and upon approval of this Chapter, allow 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. For any other solid fuel heating appliance officially exempted by the Environmental Protection Agency from the above requirements.

5-10-16: **APPLICABILITY OF CHAPTER:** Nothing in this Chapter is intended to conflict with, supersede, repeal, or affect any other regulations or requirements for the installation or inspection of solid fuel heating appliances, including, but not limited to, those regulations adopted at Chapter 2, Title 7, Ada County Code. Further, nothing in this Chapter is entitled to conflict with, supersede, repeal, or affect any other regulations or requirements for the burning, outdoor

fires, and incineration permits including, but not limited to, those regulations adopted at Chapter 2, Title 5, Section 10, Ada County Code.

5-10-17: PENALTY: A violation of any of the provisions of this Chapter or the failure or omission to perform any duty imposed by the provisions of this Chapter is hereby declared unlawful and punishable as a misdemeanor.

ADOPTED THIS 3 DAY OF Nov., 1992.

BOARD OF ADA COUNTY COMMISSIONERS

By:

John Bastida  
John Bastida  
Chairman

By:

Gary Glenn  
Gary Glenn  
Commissioner

By:

Vernon L. Bisterfeldt  
Vernon L. Bisterfeldt  
Commissioner

ATTEST:

J. David Navarro  
J. David Navarro, Ada County Clerk

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