

BY THE COUNCIL:

COOKE, KULL, LOIBL, CLAIBORNE

AN ORDINANCE PROVIDING FOR SOLID FUEL HEATING APPLIANCE REGULATION AND PERMITS; PROVIDES DEFINITIONS TO BE USED; ESTABLISHES AN AIR QUALITY DESIGNATION AND ALERT CRITERIA; PROVIDES FOR PUBLIC NOTIFICATION OF AIR QUALITY ALERTS; PROHIBITS CERTAIN TYPES OF BURNING DURING AN AIR QUALITY ALERT; PROVIDES FOR A THREE-HOUR BURN DOWN PERIOD; PROVIDES FOR EXEMPTIONS TO THE AIR QUALITY ALERT PROVISIONS; PROVIDES DUE PROCESS FOR DENIAL OF PERMIT OR EXEMPTION; PROVIDES FOR MINIMUM STANDARDS FOR CLEAN BURNING APPLIANCES; PROVIDES FOR A SOLID FUEL HEATING APPLIANCE APPEALS AND ADVISORY BOARD; PROVIDES FOR AN INCENTIVE PROGRAM FOR THE INSTALLATION OF CLEAN-BURNING SOLID FUEL HEATING APPLIANCES; PROVIDES FOR A PENALTY FOR NONCOMPLIANCE; AND PROVIDES FOR WAIVER OF THE READING RULES.

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

ARTICLE I. This ordinance shall be known as the "Solid Fuel Heating Appliance Ordinance of the City of Garden City, Idaho," and the same is hereby enacted to read as follows:

SECTION A. OBJECTIVE: To protect air quality resources vital to public health, safety and economic future of Garden City by controlling emissions from solid fuel and refuse burning.

SECTION B. APPLICABILITY: The provisions of this ordinance shall apply to all areas of Garden City.

SECTION C. DEFINITIONS:

For the purposes of this ordinance, the following terms, phrases, words, and derivations shall have the meaning given herein. The word "shall" is always mandatory, not merely directory.

"Air Pollution" the presence in the outdoor atmosphere of any contaminant 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 animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property.

"Building" means 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 Garden City Ordinance No. 511.

"Burn Down" that period of time following an air pollution alert, required for the cessation of combustion within any solid-fuel heating appliance, included within this ordinance.

"Clean-Burning Appliance" means a solid fuel heating appliance that the Building Department has determined to meet emission performance standards set in accordance with this chapter.

"Economic Hardship" means fifty percent (50%) or less of Garden City's median income as established by the U.S. Department of Housing and Urban Development (HUD).

"Heat Output" means the Btu/hour output of a solid fuel heating appliance measured under testing criteria as adopted by the Garden City Building Department.

"Open Burning" means the combustion of any material not contained in a heating appliance or incinerator.

"Particulate Matter" gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.

"Person" means any individual, firm, partnership, association, corporation, company, organization, or government entity.

"Refuse" means all solid wastes, garbage and rubbish, including but not limited to, cardboard, plastic, rubber, styrofoam, petroleum products, foodstuff, Christmas trees, yard debris or chemically treated wood.

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

"Solid Fuel" means any form of untreated wood or coal.

"Solid Fuel Heating Appliance" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, including, but not limited to, solid fuel-fired cooking stoves, pot-bellied stoves, Franklin stoves, air-tight stoves, fireplace inserts, or combination fuel furnaces or boilers which burn solid fuel. Fireplaces with air-to-fuel ratios that exceed thirty (30) to one (1) air-to-fuel ratios are exempt.

"Weighted Average" means the weighted average of the test results of the distribution of the heating needs in Garden City as calculated by the Building Department.

**SECTION D. AIR QUALITY DESIGNATIONS AND ALERT CRITERIA:**

1. The quality of Garden City's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho State Air Quality Bureau.
2. The quality of Garden City's air shall be designated according to the following table:

<u>Health Effect Designation</u>	<u>Total Suspended Particulates, 24-hour (ug/m<sub>3</sub>)</u>
Good	0-75
Moderate	76-260
Unhealthful	261-375
Very Unhealthful	376-625
Hazardous	above 626

3. In order to prevent the existence of air quality that is unhealthful, an air pollution "alert" will be declared whenever the Idaho State Air Quality Bureau measures levels of total suspended particulates exceeding 200 micrograms per cubic meter (ug/m<sub>3</sub>) and forecasts air stagnation conditions continuing for at least 24 hours.

**SECTION E. 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 Garden City.

**SECTION F. BURNING SOLID FUEL OR REFUSE:**

1. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.
2. No person shall cause or allow a refuse incinerator to be operated contrary to design specifications and manufacturers' instructions.

**SECTION G. AIR QUALITY ALERT/ADDITIONAL RESTRICTIONS:** At the onset and during the pendency of a declared air quality "alert", the following additional restrictions apply:

1. No person shall cause or allow, after a three (3) hour "burn down" period, the operation of a solid fuel heating appliance, unless an exemption has been granted by the Building Department and an exemption decal is displayed and visible from a place of public access.

2. No person shall cause or allow the operation of a solid waste incinerator.
3. No person shall cause or allow open burning of refuse.

SECTION H. AIR QUALITY ALERT EXEMPTIONS:

1. The Building Department shall grant exemptions from this ordinance if it is determined by the Building Director or designee that:
  - a. A solid fuel heating appliance is the sole source of heat for the building in which it is situated; or
  - b. That using alternative heating would cause an unreasonable economic hardship; or
  - c. The solid fuel heating appliance is listed by the Building Department as a clean-burning appliance.
2. Any person denied an exemption under this section shall be provided, at the option of the applicant for exemption, a hearing before the Mayor and City Council.
3. Any building constructed after the effective date of this Ordinance shall not be eligible for an exemption under Subsections "a" and "b" above.

SECTION I. SOLID FUEL HEATING APPLIANCE PERMITS:

1. It shall be unlawful for any person in the City of Garden City to install a solid fuel heating appliance in any new or existing structure until first procuring from the Building Department a solid fuel heating appliance permit.
2. It shall be unlawful on or after July 1, 1987, for any person in the City of Garden City to: advertise for sale, offer to sell, for installation in any new or existing building, a solid fuel heating appliance which has not been certified as clean burning by the Oregon Department of Environmental Quality (DEQ).

SECTION J. DENIAL OF PERMIT OR EXEMPTION: Upon a showing of sufficient cause to believe that grounds exist for denial of a permit, exemption, or the rules and regulations of the Building Department, as provided for in this Ordinance, the Director or designee may deny said permit or exemption by:

1. Notifying the applicant by certified mail, personal service, or substituted service of the grounds for said denial and of the applicant's opportunity to appeal said Mayor and City Council.

2. Failure of a person to actually receive a notice sent or served, shall not invalidate the denial.
3. The applicant, upon receiving notice of the denial, may appeal said denial by making application for a hearing before the Mayor and City Council within ten (10) working days of receipt of above notice.

**SECTION K. DENIAL HEARING AND DETERMINATION BY MAYOR AND CITY COUNCIL:**

The hearing shall be before the Mayor and City Council. At such hearing the applicant may present evidence, call witnesses and be represented by Counsel. Within ten (10) working days after the date of the hearing, the Mayor and City Council shall either:

1. Approve the denial by the Director or designee.
2. 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.

**SECTION L. APPEAL OF DECISION OF MAYOR AND CITY COUNCIL:** The decision of the Mayor and City Council on a denial shall be final and conclusive. Appeal from a decision of the Mayor and City Council must be made to the District Court for Ada County.

**SECTION M. MINIMUM STANDARDS FOR CLEAN-BURNING APPLIANCES:**

1. In no event shall the standards for clean-burning solid fuel heating appliances, as adopted by rule and regulation by the Building Department allow a weighted average particulate emission greater than:
  - a. For a new clean-burning solid fuel heating appliance with a heat output of less than 40,000 Btu/hr, from and after July 1, 1987 until June 30, 1988, when tested pursuant to procedures approved by the Building Department:
    - (1) 15 grams per hour for a non-catalytic solid fuel heating appliance.
    - (2) 6 grams per hour for a catalyst-equipped solid fuel heating appliance.
  - b. For a new clean-burning solid fuel heating appliance with a minimum heat output of less than 40,000 Btu per hour, after July 1, 1988, when tested pursuant to procedures approved by the Building Department:

- c. Clean-burning solid fuel heating appliances with a minimum heat output of greater than 40,000 Btu per hour, after January 1, 1987 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 thousand Btu per hour heat output.
  - d. Any person denied a clean-burning solid fuel heating appliance permit shall have a right to a hearing pursuant to this Ordinance.
2. The Building Department shall maintain a list of appliances certified to be clean burning by the Oregon Department of Environmental Quality.

SECTION N. INCENTIVE PROGRAM FOR THE INSTALLATION OF CLEAN-BURNING SOLID FUEL HEATING APPLIANCES: The City of Garden City shall endeavor to create, and provide funding for, an incentive program for the installation of solid fuel heating appliances consistent with the emissions standards provided for solid fuel heating appliances in buildings. Such incentive program shall provide low interest loans, or other inducements, to eligible persons, for the installation of solid fuel heating appliances in existing residential and/or commercial units.

SECTION O. PENALTY: The violation of any of the provisions of this Ordinance or the failure or omission to perform any duty imposed by the provisions of this Ordinance is hereby declared unlawful and punishable as a misdemeanor.

ARTICLE II: That pursuant to the affirmative vote of one-half (1/2) plus one (1) of the Members of the full Council, the rule requiring two (2) separate readings by title and one (1) reading in full be, and the same hereby is, dispensed with, and accordingly this Ordinance shall be in full force and effect immediately upon its passage, approval and publication.

PASSED by the Council of the City of Garden City, Idaho, this 12 day of MAY, 1987.

APPROVED by the Mayor of the City of Garden City, Idaho, this 14 day of MAY, 1987.

APPROVED:

[Signature]  
Mayor

ATTEST:

[Signature]  
City Clerk

ORDINANCE NO. 533

BY THE COUNCIL: CLAIRBORNE, KULL, LOIBL, and PORTER

AN ORDINANCE AMENDING TITLE 4, CHAPTER 10A, SECTION 3, GARDEN CITY CODE, TO PROVIDE FOR A CHANGE IN THE STANDARDS FOR SOLID FUEL HEATING APPLIANCE TO COMPLY WITH FEDERAL STANDARDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, subsequent to the adoption of the Solid Fuel Heating Appliance Ordinance the Federal Government has promulgated new standards for particulate emission;

WHEREAS, The Development Services Coordinator recommends the change from the current standard of total suspended particulates per cubic meter to the federal standard of particulate matter with an aerodynamic diameter less than or equal to 10 microns.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GARDEN CITY, IDAHO:

Section 1. That Title 4, Chapter 10A, Section 3, Garden City Code, be, and the same is hereby amended to read as follows:

4-6-4: AIR QUALITY DESIGNATIONS AND ALERT CRITERIA:

- A. The quality of Garden City's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho State Air Quality Bureau.
- B. The quality of Garden City's air shall be designated according to the following table "PM10" indicates particulate matter with an aerodynamic diameter less than or equal to 10 micron:

Designation	Total Suspended Particulates 24-Hour (ug/m3)	Health Effect PM10 Concentrations 24-hour (ug/m3)
Good	0-50	0-50
Moderate	51-150	51-150
Unhealthful	151-200	151-350
Very Unhealthful	201-300	201-420
Hazardous	above 300	above 420

- C. In order to prevent the existence of air quality that is unhealthful, an air pollution "alert" will be declared whenever the Idaho State Air Quality Bureau measures levels of total suspended particulates PM10 exceeding 200 110 micrograms per cubic meter (ug/m3) and forecasts air stagnation conditions continuing for at least 24-hours.

Section 2. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the Council of the City of Garden City, Idaho, this 10th day of January, 1989.

APPROVED by the Mayor of the City of Garden City, Idaho, this 10th day January, 1989.



APPROVED:

*[Handwritten Signature]*  
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 MAYOR

ATTEST:

*[Handwritten Signature]*  
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CITY CLERK

BY THE COUNCIL: GOODMAN, PEREZ, PIGG AND WEAVER

AN ORDINANCE BY THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION, RELATING TO AIR POLLUTION CONTROL FROM SOLID FUEL HEATING APPLIANCES, AMENDING THE DEFINITION FOR PARTICULATE MATTER; ADDING A NEW DEFINITION FOR DEQ; SUBSTITUTING REFERENCES TO THE IDAHO STATE AIR QUALITY BUREAU WITH THE NEW TERM DEQ; CORRECTING A TYPOGRAPHICAL ERROR; AMENDING AND MORE SPECIFICALLY DEFINING STANDARDS FOR THE LEVEL AT WHICH AN AIR QUALITY ALERT IS TO BE CALLED; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GARDEN CITY:

SECTION 1: THAT SECTION 4-10A-2, THE DEFINITION FOR PARTICULATE MATTER, GARDEN CITY CODE BE AMENDED TO READ AS FOLLOWS:

PARTICULATE MATTER      (PM10) Gas-borne particles, less than or equal to 10 micrometers aerodynamic diameter, resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.

SECTION 2: THAT A NEW DEFINITION BE ADDED TO SECTION 4-10-2A, GARDEN CITY CODE AS FOLLOWS:

DEQ                      Idaho State Department of Health and Welfare - Division of Environmental Quality

SECTION 3: THAT SECTION 4-10A-3-1, GARDEN CITY CODE BE AMENDED TO READ AS FOLLOWS:

- A. The quality of Garden City's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho State Air Quality Bureau DEQ.

- B. The quality of Garden City's air shall be designated according to the following table "PM10" indicates particulate matter with an aerodynamic diameter less than or equal to ten (10) microns:

Designation	Health Effect PM10 Concentrations 24-hour (ug/m <sup>3</sup> )
Good	0-50
Moderate	51-150
Unhealthful	151-350
Very Unhealthful	<del>201</del> 351-420
Hazardous	above 420

- C. In order to prevent the existence of air quality that is unhealthful, an air pollution "alert" will be declared whenever the ~~Idaho State Air Quality Bureau~~ DEQ measures levels of PM10 particulate matter less than or equal to ten (10) microns in aerodynamic diameter, exceeding one hundred ten (110) micrograms per cubic meter (ug/m<sup>3</sup>) and forecasts air stagnation conditions continuing for at least twenty four (24) hours.

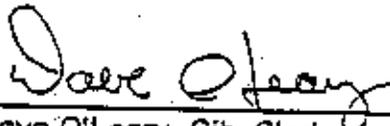
**SECTION 4:** Should any of the provisions of this Ordinance be held invalid for any cause, or should any portion of this Ordinance be declared invalid, then such declaration of invalidity shall not affect the remainder of balance of this Ordinance.

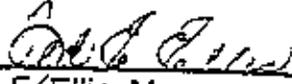
**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage, approval and publication hereof.

PASSED by the City Council and APPROVED by the Mayor of the City of Garden City, Idaho, this 13th day of September, 1994.

ATTEST:

APPROVED:

  
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 Dave O'Leary, City Clerk

  
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 Ted E. Ellis, Mayor