

Table 3

EPA APPROVED CITY AND COUNTY ORDINANCES

ORDINANCE NO. 4671

AN ORDINANCE PROHIBITING OPEN BURNING AND DECLARING AN EMERGENCY.

WHEREAS:

1. Structures in the City of Grants Pass are periodically threatened by the spreading of fire from burning barrels, grass/leaf/tree fires, and by unattended fires, and
2. The elimination of open burning in the City of Grants Pass would improve the safety of our citizens, and
3. The air quality of our community and health of our citizens is adversely affected by the open burning of materials, and
4. Open burning in the City of Grants Pass can affect the general air quality of the entire Rogue Valley, and
5. The air quality of the Rogue Valley is a concern of all governmental bodies of the region.

NOW, THEREFORE, THE CITY OF GRANTS PASS HEREBY ORDAINS:

Section 1. PROHIBITION OF OPEN BURNING

Section 11.101 of the UFC is amended to delete the language in its entirety and to substitute the following language which shall be added to the provisions of the Grants Pass Municipal Code as Section 9.12.400.

PROHIBITION OF OPEN BURNING,

- (A) Except as designated in subsection (B), no person shall start or maintain any fire outside a building for the purpose of burning any combustible material or cause or participate therein, nor shall any person in control of any premises cause or allow any such fire to be started or maintained on any part of said premises.
- (B)
  - (1) The Public Safety Department may conduct open burning for training purposes.
  - (2) Outdoor cooking fires and agricultural heating devices are allowed.

(3) Individuals or organizations may obtain a written permit for bonfires for Publicly Supervised Displays.

(a) The Director of the Public Safety Department, or his/her designee, is hereby authorized to issue requirements for any such permit including, but not limited to, bonding or insurance, supervision, fire control equipment and personnel, size, duration, composition, date, time, and location.

(b) A permit may be revoked or denied by the Director, or his/her designee, based upon the threat to persons or property, air quality standards, weather conditions, or failure or inability to comply with permit requirements.

Section 2. Emergency Clause.

An emergency is hereby declared to exist and in the interest of the public peace, health and safety of the City of Grants Pass and the inhabitants thereof, this Ordinance may be introduced and read twice and placed upon its final passage at any one meeting of the Council.

ADOPTED by the Council of the City of Grants Pass, Oregon, in regular session this 18th day of July, 1990.

SUBMITTED to and Approved by the Mayor of the City of Grants Pass, Oregon, this 23<sup>rd</sup> day of July, 1990.

Candace J. Barbaw  
Mayor

ATTEST:

Conchy Ryck  
Finance Director

ORDINANCE NO. 19731

DEC 14

AN ORDINANCE RESTRICTING THE USE OF SOLID FUEL SPACE HEATING DEVICES DURING AIR POLLUTION EPISODES; ADDING SECTIONS 6.250, 6.255, 6.260, 6.265 AND 6.270 TO THE EUGENE CODE, 1971; ESTABLISHING PENALTIES; AND DECLARING AN EFFECTIVE DATE.

The City Council of the City of Eugene finds that:

A. The health, safety and welfare of the citizens of Eugene are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Eugene.

B. Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

C. Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Eugene.

Now, therefore,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 6.250, 6.255, 6.260, 6.265, and 6.270 are hereby added to the Eugene Code, 1971, to provide:

Solid Fuel Space Heating Devices

6.250 Solid Fuel Space Heating Devices - Definitions. As used in sections 6.255 to 6.270, the following words and phrases mean:

City manager. City manager or designee, including, if the city manager so designates, LRAPA.

LRAPA. Lane Regional Air Pollution Authority, a regional air quality control authority established under the provisions of, and with authority and powers derived from, Oregon Revised Statutes 468.500 et seq.

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in charge of property. An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.



PM10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole source of heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid fuel space heating device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas fired artificial fireplaces.

Stage I red advisory. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter within the Eugene-Springfield Metropolitan Area General Plan Urban Growth Boundary.

Stage II red advisory. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter within the Eugene-Springfield Metropolitan Area General Plan Urban Growth Boundary.

Visible emissions. The reduction in transmission of light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

**6.255. Solid Fuel Space Heating Devices - Prohibitions.**

(1) No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device.

(2) No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device.

**6.260 Solid Fuel Space Heating Devices - Exemptions.** Notwithstanding section 6.255 of this code, a person in charge of property may operate a solid fuel space heating device during a Stage I or Stage II Red Advisory if that person has previously obtained one of the following exemptions from the city manager:

(a) Sole source of heat exemption. A person in charge of property who signs a sworn statement that their solid fuel space heating device is the sole source of heat for their residence. This exemption shall expire on July 1 of each year and must be renewed annually. This exemption shall not be issued after June 30, 1996.

(b) Economic need exemption. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy. This exemption shall expire on July 1 of each year and must be renewed annually thereafter.

6.265 Solid Fuel Space Heating Devices - Enforcement. In addition to, and not in lieu of any other enforcement mechanism authorized by this code, upon a determination that a person has violated section 6.255 of this code, the city manager may impose upon the violator and any other person in charge of the property, an administrative penalty not greater than \$500, as provided by section 2.018 of this code. The city manager also is authorized to designate LRAPA to enforce and administer the provisions of sections 2.655 to 2.670 of this code, including LRAPA's use of administrative and hearing procedures adopted by LRAPA in its duly promulgated regulations.

6.270 Solid Fuel Space Heating Devices - Warnings. Violation of section 6.255 of this code prior to November 1, 1991 shall result only in a warning, and no penalty.


Section 2. On or before the first Council meeting in November, 1991, the City Manager shall provide the Council with a report that will enable the Council to review the performance under the provisions adopted herein.

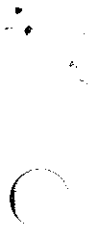
Section 3. This Ordinance shall become effective on January 1, 1991.

Passed by the City Council this  
5th day of November, 1990

  
\_\_\_\_\_  
City Recorder

Approved by the Mayor this  
5th day of November, 1990

  
\_\_\_\_\_  
Mayor



IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 9-90 (ALTERNATIVE 2)	) IN THE MATTER OF AMENDING CHAPTER 9 ) OF LANE CODE TO ADD PROVISIONS PRO- ) VIDING A RESTRICTION ON USE OF SOLID ) FUEL SPACE HEATING DEVICES (LC 9.120 ) - LC 9.160) AND INCORPORATING PROCE- ) DURES AND PENALTIES FOR ENFORCEMENT, ) PROVIDING AN EFFECTIVE DATE OF JANUARY ) 1, 1991 FOR ALL SECTIONS, EXCEPT LC ) 9.155, WHICH IS TO TAKE EFFECT ON ) NOVEMBER 1, 1991 (LC 9.990(6))
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The Board of County Commissioners of Lane County ordains as follows:

Chapter 9 of Lane Code is hereby amended by removing, adding and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

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9.990(1) - 9.995,  
i.e. 9-51  
(a total of one page)

9.120 - 9.125 to  
9.145 - 9.160  
i.e. 9-9a to 9-9c  
(a total of three new pages)

9.990(1) - 9.995,  
i.e. 9-51  
(a total of one page)

Said pages are attached hereto and incorporated herein by reference. The purpose of these additions and substitutions is to add provisions providing a restriction on use of solid fuel space heating devices (LC 9.120) - LC 9.160) and incorporating procedures and penalties for enforcement, providing an effective date of January 1, 1991 for all sections, except LC 9.155, which is to take effect on November 1, 1991 (LC 9.990(6)).

Enacted this 19<sup>th</sup> day of December, 1990.

*Bills Rogers*  
\_\_\_\_\_  
Chair, Lane County Board of  
Commissioners

*Judy Haldeman*  
\_\_\_\_\_  
Recording Secretary for this  
Meeting of the Board

RECEIVED

DEC 21 1990

#20026

LANE COUNTY BOARD OF COMMISSIONERS

APPROVED AS TO FORM
DATE 12/20/90
<i>Will At</i>
OFFICE OF LEGAL COUNSEL

1 - IN THE MATTER OF AMENDING CHAPTER 9 OF LANE CODE TO ADD PROVISIONS PROVIDING A RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES (LC 9.120) - LC 9.160) AND INCORPORATING PROCEDURES AND PENALTIES FOR ENFORCEMENT, PROVIDING AN EFFECTIVE DATE OF JANUARY 1, 1991 FOR ALL SECTIONS, EXCEPT LC 9.155, WHICH IS TO TAKE EFFECT ON NOVEMBER 1, 1991 (LC 9.990(6))

bcj/4210

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**APPENDIX**

**H**

**LOCALLY  
ADOPTED  
ORDINANCES**

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## RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES

9.120 Purpose and Findings.

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991.

9.125 Definitions. As used herein, the following words and phrases shall mean:

Lane Regional Air Pollution Authority. A regional air quality control authority established under the provisions of and with the authority and powers derived from Oregon Revised Statutes 468.500 et seq.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM 10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Stage I Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Stage II Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

9.130 Area of Applicability. The Metropolitan Area General Plan Urban Growth Boundary adopted in 1982 as amended through June 1990, excluding the area within the city limits of Eugene and Springfield.

9.135 Prohibitions.

(1) Stage I Red Advisory. No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Stage II Red Advisory. No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device.

9.140 Exemptions. Exemptions from LC 9.135 above for Stage II and/or Stage I Red Advisories may be obtained from LRAPA for the following:

(1) Sole Source of Heat. A person in charge of property who signs a sworn statement that the solid fuel space heating device is the sole source of heat for that person's residence is exempt from LC 9.135 above, for both Stage I and Stage II Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. This exemption shall not be issued by LRAPA after June 30, 1996.

(2) Economic Need. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for both Stage I and Stage II Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually.

9.145 Enforcement. The Board of County Commissioners designates LRAPA to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a violation and appeal of such violation shall be regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.

The County shall also retain the right to investigate and enforce the terms of this ordinance. Existing citation, complaint or violation procedures applicable to the County may be utilized to prosecute such violations.

9.150 Warnings. Until November 1, 1991, violation of LC 9.135 above shall only result in notification without penalty.

9.155 Penalties. Violation of LC 9.135 above shall be punished by a fine of a minimum of \$50 to a maximum of \$500 for each day in which such violation occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. This subsection shall be effective November 1, 1991.

9.160 Effective Date. All sections of this ordinance except LC 9.155 above shall take effect on January 19, 1991. LC 9.155 shall take effect on November 1, 1991.



Violations and Penalties

9.990

Violation.

(1) Violation of any provisions of this Chapter, except LC 9.745, LC 9.120 to 9.160 and those sections enumerated in LC 9.995, constitutes a Class A Infraction and shall be handled in accordance with LC Chapter 5. A violation of LC 9.745 constitutes a Class B Infraction.

(2) Any person may sign County Infraction summonses and complaints for violations of section 9.035.

(3) The Director of the Department of Public Works, or duly authorized representative, may sign County infraction summonses and complaints for violations of LC sections 9.710 and 9.745, the Director of the Department of Community Health and Social Services, or duly authorized representative, may sign County Infraction summonses and complaints for violations of any other LC sections listed in subsection (1) of this section.

(4) Each day in which a violation of sections 9.554, 9.558, 9.560, 9.564, 9.710 or 9.745 continues constitutes a separate infraction.

(5) At the expiration of the period set by the County for correction of any violation of sections 9.310 to 9.370, the County shall again inspect the dwelling. If the violation has not been corrected, the violation shall constitute a County Infraction.

(6) Violation of LC 9.135 shall be subject to the procedures of LC 9.145 to LC 9.150 and the penalty as specified in LC 9.155.

9.995

Penalty.

Violation of sections 9.020, 9.030, 9.040, 9.045, 9.050, 9.060, 9.080, 9.085, 9.090, 9.095, 9.100, 9.115 or any of the rules or regulations published under the authority of Lane Code 9.110 shall be deemed to be a misdemeanor and shall be punishable on conviction by a fine of not more than \$500 or by imprisonment in the County jail for not more than six months, or both.

20-72; 10.13.72

5-73; 8.4.73

9-73; 8.15.73

10-74; 8.23.74

7-75; 5.16.75

7-84; 7.27.84

9-51

WP 1/co/00021/C/51

REV: 1/cr/00081/C

RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES9.120 Purpose and Findings.

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991.

9.125 Definitions. As used herein, the following words and phrases shall mean:

Lane Regional Air Pollution Authority. A regional air quality control authority established under the provisions of and with the authority and powers derived from Oregon Revised Statutes 468.500 et seq.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM 10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Stage I Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Stage II Red Advisory. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

9.130 Area of Applicability. The Metropolitan Area General Plan Urban Growth Boundary adopted in 1982 as amended through June 1990, excluding the area within the city limits of Eugene and Springfield.

9.135 Prohibitions.

(1) Stage I Red Advisory. No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Stage II Red Advisory. No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device.

9.140 Exemptions. Exemptions from LC 9.135 above for Stage II and/or Stage I Red Advisories may be obtained from LRAPA for the following:

(1) Sole Source of Heat. A person in charge of property who signs a sworn statement that the solid fuel space heating device is the sole source of heat for that person's residence is exempt from LC 9.135 above, for both Stage I and Stage II Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. This exemption shall not be issued by LRAPA after June 30, 1996.

(2) Economic Need. Persons in charge of property who satisfy criteria established under the low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for both Stage I and Stage II Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually.

9.145 Enforcement. The Board of County Commissioners designates LRAPA to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a violation and appeal of such violation shall be regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.

The County shall also retain the right to investigate and enforce the terms of this ordinance. Existing citation, complaint or violation procedures applicable to the County may be utilized to prosecute such violations.

9.150 Warnings. Until November 1, 1991, violation of LC 9.135 above shall only result in notification without penalty.

9.155 Penalties. Violation of LC 9.135 above shall be punished by a fine of a minimum of \$50 to a maximum of \$500 for each day in which such violation occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. This subsection shall be effective November 1, 1991.

9.160 Effective Date. All sections of this ordinance except LC 9.155 above shall take effect on January 19, 1991. LC 9.155 shall take effect on November 1, 1991.

Violations and Penalties**9.990** Violation.

(1) Violation of any provisions of this Chapter, except LC 9.745, LC 9.120 to 9.160 and those sections enumerated in LC 9.995, constitutes a Class A Infraction and shall be handled in accordance with LC Chapter 5. A violation of LC 9.745 constitutes a Class B Infraction.

(2) Any person may sign County Infraction summonses and complaints for violations of section 9.035.

(3) The Director of the Department of Public Works, or duly authorized representative, may sign County infraction summonses and complaints for violations of LC sections 9.710 and 9.745, the Director of the Department of Community Health and Social Services, or duly authorized representative, may sign County Infraction summonses and complaints for violations of any other LC sections listed in subsection (1) of this section.

(4) Each day in which a violation of sections 9.554, 9.558, 9.560, 9.564, 9.710 or 9.745 continues constitutes a separate infraction.

(5) At the expiration of the period set by the County for correction of any violation of sections 9.310 to 9.370, the County shall again inspect the dwelling. If the violation has not been corrected, the violation shall constitute a County Infraction.

(6) Violation of LC 9.135 shall be subject to the procedures of LC 9.145 to LC 9.150 and the penalty as specified in LC 9.155.

**9.995** Penalty. Violation of sections 9.020, 9.030, 9.040, 9.045, 9.050, 9.060, 9.080, 9.085, 9.090, 9.095, 9.100, 9.115 or any of the rules or regulations published under the authority of Lane Code 9.110 shall be deemed to be a misdemeanor and shall be punishable on conviction by a fine of not more than \$500 or by imprisonment in the County jail for not more than six months, or both.

20-72; 10.13.72  
5-73; 8.4.73  
9-73; 8.15.73  
10-74; 8.23.74  
7-75; 5.16.75  
7-84;;7.27.84

9-51

WP 1/co/00021/C/51  
REV: 1/cr/00080/C

AN ORDINANCE CONCERNING THE AIR QUALITY OF THE CITY; RESTRICTING THE USE OF SOLID FUEL SPACE HEATING DEVICES DURING AIR POLLUTION EPISODES; ESTABLISHING PENALTIES AND ADDING SECTION 4-8-4 TO THE SPRINGFIELD CITY CODE 1965.

The City Council of the City of Springfield finds that:

A. The health, safety and welfare of the citizens of Springfield are adversely affected by the degradation of air quality. Violations of federal ambient air standards, as measured by the Lane Regional Air Pollution Authority (LRAPA), occur periodically in Springfield.

B. Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

C. Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Springfield.

THE CITY OF SPRINGFIELD DOES ORDAIN AS FOLLOWS:

Section 1. Section 4-8-4 of the Springfield Code 1965 is added to provide:

4-8-4 Solid Fuel Space Heating Devices

(1) Definitions. As used herein, the following words and phrases shall mean:

(a) City Manager. City Manager or designee, including, if the city manager so designates, LRAPA.

(b) LRAPA. Lane Regional Air Pollution Authority, a regional air quality control authority established under the provisions of, and with authority and powers derived from, Oregon Revised Statutes 468.500 et seq.

(c) Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534.

(d) Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

(e) Person in Charge of Property. An agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property.

(f) PM10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

(g) Sole Source of Heat. One or more solid fuel burning devices which constitute the only source of heating in a private residence. No solid fuel burning devices shall be considered to be sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity, or propane.

(h) Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including without limitation, solid fuel burning stoves, fireplaces, or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel burning device" does not include natural gas fired artificial fireplaces.

(i) Stage I Red Advisory. A 24 hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

(j) Stage II Red advisory. A 24 hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

(k) Visible Emissions. The reduction in transmission of light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

(2) PROHIBITIONS.

(a) Stage I Red Advisory. No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(b) Stage II Red Advisory. No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel space heating device unless the person in charge of the property has been granted an exemption to use the device by LRAPA or unless the person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device.

(3) EXEMPTIONS. A person in charge of property may operate a solid fuel space heating device during a Stage I or Stage II Red Advisory if that person has previously obtained one of the following exemptions from LRAPA.

(a) Sole Source of Heat: A person in charge of property who signs a sworn statement that the solid fuel space heating device is the sole source of heat for that persons residence is exempt from Section 2 above. Individual exemptions shall expire on July 1 of each year and must be renewed annually. This exemption shall not be issued by LRAPA after June 30, 1996.

(b) Economic Need: Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Springfield Utility Board and as established by the United States Department of Energy are exempt from the prohibitions established herein. Individual exemptions shall expire on July 1 of each year and must be renewed annually.

(4) ENFORCEMENT. LRAPA is hereby authorized and designated to enforce and administer the process of Section 4-8-4(2) through 4-8-4(5) of the code in accordance with LRAPA Title 14 "Rules of Practice and Procedures" adopted February 13, 1990.

(5) VIOLATIONS. Violations of section 4-8-4(2) through 4-8-4(5) shall be in accordance with applicable Oregon Revised Statutes and LRAPA title in "Rules of Practice and Procedures" adopted February 13, 1990.

(6) WARNINGS. Prior to November 1, 1991, violation of Section 4-8-4(2) of this code shall result only in a warning, and no penalty.

ADOPTED by the Common Council of the City of Springfield this 17th day of December, 1990 by a vote of 4 for and 1 against.

APPROVED by the Mayor this 17th day of December, 1990 .

Bill Mondak  
Mayor

ATTEST:

Gilbert Stein

REVIEWED & APPROVED  
AS TO FORM

Joseph J. Leary

DATE: 12/10/90

OFFICE OF CITY ATTORNEY  
CITY OF SPRINGFIELD



22

C

C

C

BE IT REMEMBERED, that at a regular term of the Board of Commissioners of the State of Oregon, for the County of Union, sitting for the transaction of County business, begun and held at the Joseph Building Annex in the City of La Grande, in said County and State, on Wednesday of said month and the time fixed by law for holding a regular term of said Commission, when were present:

The Honorable LORENCE D. SAVAGE, Chairman  
JOHN J. HOWARD Commissioner  
STEVE MCCLURE Commissioner

WHEN, on WEDNESDAY, the 5th day of June, 1991, among others the following proceedings were had to-wit:

IN THE MATTER OF AN ORDINANCE  
CONTROLLING AND MANAGING FIELD BURNING IN UNION COUNTY, OREGON  
AND CREATING A UNION COUNTY SMOKE MANAGEMENT PROGRAM  
AND DECLARING AN EMERGENCY

ORDINANCE  
1991-6

WHEREAS, Union County is primarily an agricultural County in which numerous acres of wheat and grass seed crops are grown; and

WHEREAS, it is recognized that grass seed and cereal grain fields benefit from thermal sanitation (open burning) in order to eliminate certain diseases and pests; and

WHEREAS, if the practice of open field burning is to be allowed in Union County, it is necessary to establish an effective and enforceable smoke management program to control open field burning, in order to protect public health and safety and to avoid visibility degradation in the Eagle Cap Class I Wilderness Area.

NOW, THEREFORE, BE IT ORDAINED by the Union County Board of Commissioners as follows:

SECTION I. UNION COUNTY SMOKE MANAGEMENT PROGRAM.

The Union County Smoke Management Program is hereby created to administer the provisions of this act.

The smoke management season will run from July 15 through September 30 inclusive, for each year or dates set by the County Board of Commissioners.

Field burning occurring outside of the smoke management season must still comply with:

1. Section V parts B thru K.
2. Any penalties that apply from Section VI.
3. Per acre burn fees.

## SECTION II. FIELD BURNING FEES.

A. All open field burning in Union County shall be subject to a burning fee for each acre burned. The amount of this fee shall be determined by the Union County Grass Seed Growers Association prior to the start of each field burning season. This fee shall be based on a budget projection of the estimated revenue necessary to cover the program operating expenses listed in part D of this section.

B. The burning fee applies only to the open burning of grass seed and cereal grain acreage. It does not apply to propane flaming on said acreage where straw residue has been removed prior to flaming, or where propane flaming is being used as a secondary or follow-up treatment to open burning.

C. All field burning fees collected shall be placed in a special fund to support the Union County Smoke Management Program.

D. The County Board of Commissioners will contract with the Union County Grass Seed Growers Association to use these funds to cover the following program operation expenses:

1. Meteorological monitoring equipment, which shall include a surface wind station and may include theodolite and pilot balloons.
2. Airplane flights for vertical temperature readings and burn sightings.
3. Office materials, which shall include maps, burn report forms, and burn fee receipts.
4. Contract personnel, which may include smoke management program manager, airplane pilot, and other personnel as necessary.

## SECTION III. FIELD BURNING PERMITS.

A. Fire permits must be obtained from the appropriate fire protection agency before any open field burning is conducted.

B. Each fire permit issued for open field burning in Union County shall include the following conditions:

1. Date of the permit and time of issuance.
2. Field(s) location and size.
3. Any fire safety requirements as specified by the State Fire Marshal's Rules, i.e. extinguishing capability, establishing fire guards, safe burning techniques, etc.
4. A 90-minute limit after permit issuance to commence the burning of the field.

## SECTION IV. DAILY FIELD BURNING AUTHORIZATION CRITERIA.

A. Open field burning shall be allowed in Union County when the prevailing atmospheric dispersion and burning conditions are favorable for optimum smoke dispersal. Determination "made at the smoke management center," of optimum smoke dispersal conditions may be made based on the following factors:

1. Morning weather forecast and discussion with the National Weather Service office in Pendleton, indicating anticipated weather conditions for Union County, such as afternoon surface and upper-level wind direction and speed, high temperature, and lowest relative humidity.
  2. Temperature sounding from local aircraft taken in the morning.
  3. Calculated maximum mixing height for each day, based on temperature sounding.
  4. Upper-level transport wind direction and speed as determined by pilot balloon readings taken at the smoke management center at Imbler.
  5. Surface level winds, based on wind monitoring equipment located at the smoke management center at Imbler, and the La Grande/Union County Airport or other locations in Union County.
  6. Observations of visibility and potential smoke impacts from the Point Prominence lookout station.
- B. Once the determination has been made that favorable conditions exist for burning, a test fire may be conducted to verify that such conditions exist.

**SECTION V. GENERAL REQUIREMENTS.**

- A. Open field burning is prohibited under poor smoke dispersal conditions, or when the mixing height is 1500 feet or lower as measured from ground elevation at Imbler. A test fire may be used to determine the actual mixing height, or a calculated mixing height may be used.
- B. No open field burning, including test fires, shall be allowed when prevailing winds indicate smoke transport directly toward the following areas:
1. The La Grande PM 10 Non-attainment Area.
  2. The Eagle Cap Class I Wilderness Area.
- C. All open field burning shall be conducted in a manner which minimizes smoke impact on the public and promotes safe burning practices.
- D. No open field burning shall be allowed if the State Fire Marshal or designated agent has prohibited burning based on fire safety considerations, i.e. high fire danger conditions.
- E. Open field burning shall be prohibited on Sundays and holidays. Open field burning shall be prohibited on Saturdays except following extreme periods of wet weather or special circumstances.
- F. No open field burning shall be allowed during air stagnation periods designated by the National Weather Service or during likely periods of noncompliance with National Ambient Air Quality Standards.
- G. Propane flaming on grass seed and cereal grain acreage is allowed only when the loose straw has been removed from the field, or if the field has been recently open burned. Propaning is allowed on all days except Sundays and holidays.

H. Rapid ignition techniques are encouraged on all acreage where there are no imminent fire hazards or public safety concerns.

I. Test fires may only be used after meteorological and atmospheric conditions have been carefully analyzed.

J. This ordinance does not relieve permittees from responsibility for fire damage.

K. Any field not authorized for burning that is accidentally ignited must be extinguished immediately and reported to the smoke management center.

L. On or before December 1 of each year, the following information shall be assembled and reported to the Department of Environmental Quality:

1. Daily acreage burned.
2. Daily meteorology on each burn day.
3. Daily smoke impacts in La Grande and the Eagle Cap Wilderness Area (extent, duration, and severity of smoke impact).
4. Daily public complaints (location and observation of complainant).
5. Total amount of fees collected for the year.
6. A summary of any enforcement action taken during the season.

#### SECTION VI. SMOKE MANAGEMENT PROGRAM FINES AND PENALTIES.

A. The Union County Smoke Management Program shall provide Union County with adequate funding to hire a seasonal field inspector. The field inspector will have the responsibility of providing observations of field burning activity to the smoke management center, extent, duration and severity of smoke impacts, and investigating any potential violations of the provisions of this Ordinance, for which the field inspector shall be empowered to issue noncompliance notices.

The following violations of this Ordinance shall be subject to the following fines and penalties:


1. \$500 for burning without first obtaining a burning permit.
2. \$250 for open burning more acres than authorized.
3. \$100 for burning acreage for which a burning fee was not paid.
4. Not less than \$50 nor more than \$100 for any other violation pertaining to this Ordinance.
5. An automatic doubling of each fine for any reoccurring violation of the Ordinance per season.


Violators shall be cited into the Union County District Court. The fines and penalties shall not be in lieu of the field burning fees as assessed in Section I. Said assessment in Section II shall be levied and enforced by and through the Union County Board of Commissioners, and shall be in addition to whatever fines and penalties are imposed pursuant to this ordinance.


SECTION VII. EMERGENCY ADOPTION

Whereas an emergency exists in order to have guidelines in place before the 1991 burning season, this ordinance shall become effective July 1, 1991.

Passed by the Union County Board of Commissioners this 5th day of June, 1991.

  
\_\_\_\_\_  
LAWRENCE D. SAVAGE, CHAIRMAN

  
\_\_\_\_\_  
JOHN J. HOWARD, COMMISSIONER

  
\_\_\_\_\_  
STEVE MCCLURE, COMMISSIONER



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR THE COUNTY OF KLAMATH

1 IN THE MATTER OF ADOPTING A )  
2 MANDATORY AIR QUALITY PROGRAM AND )  
3 ESTABLISHING BOUNDARIES AND )  
4 ENFORCEMENT CONTROLS )

ORDINANCE NO. 63

5  
6  
7 WHEREAS, the health, safety and welfare of the citizens of  
8 Klamath County are adversely affected by degradation of air  
9 quality within areas of Klamath County;

10  
11 WHEREAS, wood combustion for space heating produces par-  
12 ticulate matter and other pollutants which are injurious to the  
13 public health, and are a primary cause of degraded air quality  
14 within Klamath County and;

15  
16 WHEREAS, a mandatory wood burning curtailment ordinance is  
17 essential to comply with provisions of the federal Clean Air  
18 Act and assure healthful air quality and;

19  
20 WHEREAS, the burning of materials such as unrefined used  
21 oil, plastics, garbage, colored paper, panel board and treated  
22 wood emits pollutants which are physically harmful, and con-  
23 tribute to the degradation of air quality and;

24  
25 WHEREAS, the open burning of domestic wastes, forestry  
26 slash, highway right-of-way and land clearing debris, agricul-  
27 tural wastes and commercial wastes during periods of poor atmo-  
28 spheric ventilation contributes to degradation of air quality;

29  
30 NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR  
31 KLAMATH COUNTY HEREBY ORDAINS:

32  
33 1. Chapter 170 is hereby added to the Klamath County Code  
34 and is set out herein in its entirety:

35  
36 DIVISION 4  
37 CHAPTER 170  
38 KLAMATH COUNTY CLEAN AIR ORDINANCE



1 170.001 Policy and Purpose. To set out controls in prob-  
2 lem areas and specifying the nonattainment area so that Klamath  
3 County will have clean air and improved visibility for the ben-  
4 efit of its citizens health and welfare, to improve economic  
5 development opportunities and to be in compliance with terms of  
6 the federal Clean Air Act of 1990 and not exceed the National  
7 Ambient Air Quality Standard.

8  
9 170.005 Definitions. Except where the context otherwise  
10 requires, the definitions given in this section govern the con-  
11 struction of this Chapter.

12  
13 (1) Air Quality Advisory. As a means to inform area residents  
14 of what the air quality is or potentially will be, an air advi-  
15 sory will be provided. The advisories shall be:

16 (a) Red Advisory - A notice given for the period of time  
17 declared by Klamath County Air Quality when PM-10 concentra-  
18 tions are forecast to exceed or are exceeding 150 ug/m<sup>3</sup> for a  
19 24-hour average. Such pollution levels have a high probability  
20 of being injurious to public health.

21 (b) Yellow Advisory - A notice given for the period of  
22 time declared by Klamath County Air Quality when PM-10 concen-  
23 trations are forecast to exceed or are exceeding 81 ug/m<sup>3</sup> for a  
24 24-hour average. Such pollution levels have a high probability  
25 of being injurious to public health.

26 (c) Green Advisory - A notice given for the period of time  
27 declared by Klamath County Air Quality when PM-10 concentra-  
28 tions are forecast to not exceed 80 ug/m<sup>3</sup> for a 24-hour aver-  
29 age.

30  
31 (2) Air Quality Pollution Areas. Three control zones are  
32 identified: Urban Growth Boundary (Exhibit A1), Air Quality  
33 Control Area (Exhibit A2, A3) and Visibility Control Area (Ex-  
34 hibit A4).

35  
36 (4) Agricultural Operation. An activity on land currently used  
37 or land intended to be used primarily for the purpose of ab-  
38 taining a profit in money by raising, harvesting and selling  
39 crops or by the raising and sale of livestock or poultry or the  
40 produce thereof, which activity is necessary to serve that pur-  
41 pose; it does not include the construction and use of dwellings  
42 customarily provided in conjunction with the agricultural op-  
43 eration. OAR -23-030 (1)

44  
45 (5) Burn Down Time. A period of time allowed for fires in solid  
46 fuel-fired wood heating appliances to die down prior to the be-  
47 ginning of enforcement activities. Such burn down time applies  
48 with Red or Yellow Advisory periods.

- 1 (6) Certified Wood Burning Appliance. A solid fuel-fired wood
- 2 heating appliance that appears on the current Oregon Department
- 3 of Environmental Quality\* or the United States Environmental
- 4 Protection Agency listing of solid fuel-fired heating devices
- 5 tested and approved in accordance with EPA emission certifica-
- 6 tion method published in 40 CFR Part 60, Subpart AAA, Section
- 7 60.530 - 60.539b; February 23, 1988.
- 8
- 9 (7) Cook Stove. A wood burning stove installed in the kitchen
- 10 which is primarily designed for cooking and has a stove top and
- 11 an oven. It may also be equipped with gas burners.
- 12
- 13 (8) Dry Wood Certificate. A certificate (provided by Klamath
- 14 County Air Quality) issued by fire departments within the pri-
- 15 mary Air Quality Control Area. The certificates certify that
- 16 cordwood is seasoned.
- 17
- 18 (9) Fireplace. An open hearth or fire chamber or similar pre-
- 19 pared place in which a fire may be made and which is built in
- 20 conjunction with a chimney.
- 21
- 22 (10) Open Burning. Open outdoor fires (including burn bar-
- 23 rels/backyard incinerators) of agricultural, commercial, domes-
- 24 tic or industrial waste; forestry slash and land clearing de-
- 25 bris.\*\*\*
- 26 (a) Agricultural waste. Any materials generated or
- 27 or used by an agricultural operation;
- 28
- 29 (b) Commercial waste. Materials from offices,
- 30 warehouses, restaurants; mobile home parks, dwellings
- 31 (apartments) containing more than four family units,
- 32 hotels, motels, schools or wholesale or retail yards;
- 33
- 34 (c) Domestic waste. Household materials
- 35 including paper, cardboard, clothing, yard debris, or
- 36 other material generated in or around a dwelling of four
- 37 or less family units.
- 38
- 39 (d) Industrial waste. Any materials (including
- 40 process wastes) produced as a direct result of any manu-
- 41 facturing or industrial process;
- 42
- 43 (e) Slash. Forest debris or woody vegetation
- 44 related to the management of forest lands;

\*Ref. OAR 340-21-105 (1(b))  
 \*\*Ref. OAR 340-23-030

- 1 (f) Land Clearing debris. Trees, brush, stumps
- 2 or man-made structures burned for the purpose of site
- 3 preparation or cleanup and includes debris along highway
- 4 or roadway right-of-ways.
- 5
- 6 (11) Panel Board. Construction panel board manufactured from
- 7 wood particles or veneer and held together by resins. Such
- 8 panel board includes, but is not limited to: plywood, particle
- 9 board and chipboard.
- 10
- 11 (12) Pellet Stove. Solid fuel-fired burning device designed to
- 12 heat the interior of a building. It is a forced draft heater
- 13 with an automatic feed which supplies appropriately sized feed
- 14 of compressed pellets made from wood fiber or other bio-mass
- 15 material to the firebox.
- 16
- 17 (13) Permit. A nonindustrial year-round permit to pollute the
- 18 airshed for solid fuel-fired burning devices, indoor and out-
- 19 door trash burners, wood cookstoves and pellet stoves in the
- 20 primary Air Quality Control Area.
- 21
- 22 (14) Person. Any individual, partnership, corporation, company
- 23 or other association.
- 24
- 25 (15) Prohibited Materials. Any combustible material that nor-
- 26 mally results in dense or noxious smoke when burned. Also in-
- 27 cluded are any materials which cause a public or private nui-
- 28 sance or a hazard to public safety.
- 29
- 30 (16) Seasoned Cordwood. Cordwood which has a moisture content
- 31 of less than 20% (dry basis) measured with a Delmhorst Wood
- 32 Moisture Meter (or equivalent meter).
- 33
- 34 (17) Sole Source of Heat. One or more residential solid fuel
- 35 woodburning appliances which constitute the only source of
- 36 space heat in a private residence. No residential solid fuel
- 37 heating device or devices shall be considered to be the sole
- 38 source of heat if the private residence is equipped with a
- 39 working system which is permanently installed: oil, natural
- 40 gas, electric, geothermal, solar or propane heating system
- 41 whether connected or disconnected from its source.
- 42
- 43 (18) Solid Fuel-Fired Heating Appliance. A device designed for
- 44 solid fuel combustion so that useable heat is derived for the
- 45 interior of buildings and includes cordwood stoves, fireplaces,
- 46 solid fuel-fired cook stoves and combination fuel furnaces or
- 47 boilers which burn solid fuels. Solid fuel-fired heating ap-
- 48 pliances do not include natural gas fired artificial fireplace
- 49 logs nor do they, for this ordinance, refer to pellet stoves.

1 (19) Warning. An official notification that a person has been  
2 found by inspectors to be burning on a nonauthorized day.  
3

4 **170.100 General Rules and Regulations.**  
5

6 (1) **VISIBLE AIR CONTAMINANTS.** No person operating a  
7 solid-fuel fired heating appliance within the Air Quality Con-  
8 trol Area shall allow smoke of an opacity of greater than that  
9 shade designated as No. 1 on the Ringelmann Chart (Exhibit B)  
10 or 20% opacity to be vented to the atmosphere for a period or  
11 periods aggregating more than three (3) minutes in any one (1)  
12 hour period. Emissions created during a fifteen (15) minute  
13 start-up period are exempt unless that emission exceeds 40%  
14 opacity.  
15

16 (2) **COAL BURNING.** No coal shall be burned unless used as a  
17 primary heat sources prior to the date of adoption of this  
18 Ordinance. There shall be a presumption of the prior use of  
19 coal in a solid fuel-fired appliance if an affidavit attesting  
20 to this use is submitted to Klamath County Air Quality on or  
21 before January 1, 1992. On or after January 1, 1993, no coal  
22 shall be burned by any person, private or commercial, within  
23 the Air Quality Control Area.  
24

25 (3) **APPLIANCE RESALE AND INSTALLATION.** The resale and/or in-  
26 stallation of used, uncertified solid fuel-fired heating appli-  
27 ances within Klamath County is prohibited, excluding solid-fuel  
28 fired cookstoves.  
29

30 (4) **BURNING PROHIBITED MATERIALS.** Prohibited materials shall  
31 not be burned in open burning (including burn barrels) or in  
32 fireplaces, solid fuel-fired appliances, or cook stoves/trash  
33 burners (as defined in 170.005 (15).) within Klamath County.  
34 Excepted is re-refined used oil.  
35

36 **170.150 Pollution Prohibitions**  
37

38 (1) **PUBLIC RESPONSIBILITIES.** Each person that burns indoors  
39 or outdoors in the Air Quality Control Area is responsible for  
40 being aware and complying with the air quality advisories.  
41 Each person is responsible for acquiring the proper operation  
42 permit and exemption to burn. Advisories during the winter  
43 heating season are given twice daily through the Air Quality  
44 Announcer. Pellet stove operators are excluded from following  
45 the advisories. Visible Air Contaminants emissions standards  
46 (170.100 (1).) must be adhered to by all permitted and exempted  
47 device operators. A burn down time will be given with red or  
48 yellow curtailment advisories. No enforcement action will take  
49 place until after the burn down time.

1 (2) RED ADVISORIES. No person shall operate any solid  
2 fuel-fired heating appliance during Red Advisory periods unless  
3 an exemption has been granted pursuant to this Ordinance. A  
4 warning and/or citation shall be issued if smoke is being dis-  
5 charged through a flue or chimney of nonexempted homes, ex-  
6 cluding a burn-down period.  
7

8 (3) YELLOW ADVISORIES. Only permitted certified solid  
9 fuel-fired heating appliances may be operated during a Yellow  
10 Advisory unless an exemption has been granted. A warning  
11 and/or citation shall be issued for noncertified, nonexempt op-  
12 erators if smoke is being discharged through a flue or chimney,  
13 any time during a Yellow Advisory period, excluding a burn-down  
14 period.  
15

16 (4) GREEN ADVISORIES. Open and indoor burning may be con-  
17 ducted so long as other restrictions are complied with.  
18

#### 19 170.200. Nonowner Occupied Dwelling Units 20

21 (1) SOLE SOURCE PHASE OUT. Following December 31, 1992, it  
22 shall be unlawful for a solid fuel-fired heating appliance to  
23 be the sole source of heat in any nonowner (tenant) occupied  
24 dwelling unit within the Air Quality Control Area. Such  
25 nonowner dwelling units will be in violation of 170.150 of this  
26 Ordinance. Exemptions from phase out may be granted landlords  
27 on the basis of income as defined in 170.350 of this ordinance.  
28 Upon granting an exemption, the low income phase out of sole  
29 source stoves under 170.350 then must be adhered to (December  
30 31, 1997). If an exemption is granted, tenants must follow the  
31 emission standards of this ordinance, 170.100. Tenants of such  
32 a dwelling unit shall be considered in violation, not the  
33 owner, if they fail to follow the visible air contaminants pro-  
34 visions of 170.100. All owners with dwelling units with sole  
35 source heating devices, must (a) register or have tenants regis-  
36 ter for a permit to burn and an exemption if qualified with  
37 Klamath County Air Quality annually; (b) owners must demon-  
38 strate that a back up heating device has been installed by the  
39 deadline; (c) be able to demonstrate that the tenant has been  
40 instructed to comply with wood-burning curtailment advisories  
41 and (d) if the wood heating device has been retained in the  
42 dwelling that a permit be kept current.  
43

#### 44 170.250 Airshed Pollution Permits 45

46 (1) Airshed pollution permits for all solid fuel-fired heating  
47 appliances are required annually as an offset to polluting the  
48 Air Quality Control Area. Permits are required for pellet

1 stoves even though they are excluded from the burn advisories.  
2 A permit is required for a fireplace only if used as a primary  
3 source of heat. Permits are available from Klamath County Air  
4 Quality. Fees may be established by the Board of Klamath County  
5 Commissioners.

6 (a) Persons in the Air Quality Control Area who are exempted  
7 under 170.350 must obtain a permit annually.

8  
9 (b) No new sole source heating permits shall be issued after  
10 December 31, 1991.

11  
12 (2) Airshed pollution permits for all outdoor or indoor in-  
13 cinerators, burn barrels and pile burning are required annually  
14 as an offset to polluting the Air Quality Control Area. Such  
15 permits do not preclude fire department of jurisdiction permit  
16 to do outdoor burning.

17  
18 (3) Persons obtaining permits who qualify for low income ex-  
19 ceptions may have fees waived if their income falls below the  
20 HUD Very Low Income guidelines.

21  
22 **170.300 Open Burning Restrictions**

23  
24 (1) **PROHIBITED MATERIALS.** The burning of prohibited materials  
25 (as defined in 170.005) within Klamath County is forbidden.

26  
27 (2) **OPEN BURNING DURING RED AND YELLOW ADVISORY PERIODS.** All  
28 open burning including burn barrels/incinerators is prohibited  
29 during Red or Yellow periods within Klamath County unless a  
30 variance has been approved by Klamath County Air Quality.

31  
32 (3) **AGRICULTURAL BURNING PROHIBITED.** All agricultural open  
33 burning is prohibited at all times in that area of the Air  
34 Quality Control Area defined as the Klamath Falls Urban Growth  
35 Boundary and within one-quarter mile of that boundary. Vari-  
36 ances are available (as defined in 170.400) upon certification  
37 of need.

38  
39 (4) **BURNING PERIOD:** Open burning conducted during periods  
40 other than Red or Yellow Advisories must be completed during  
41 daylight hours. Fires must be completely out by sunset unless  
42 otherwise permitted or directed according to existing agree-  
43 ments and programs.

44  
45 **170.350 Exemptions.** Exemptions apply to the Air Quality Control  
46 Area; deadlines for changing out heat sources apply only to the  
47 Klamath Falls Urban Growth Boundary.

1 (1) ADMINISTRATION. Certificates of Exemption to burn solid  
2 fuel-fired heating devices for residential space heating  
3 purposes during poor air quality periods may be obtained  
4 through Klamath County Air Quality and may be renewed annually.  
5 Annual renewal of an exemption is the responsibility of the  
6 registrant. Only dry, seasoned wood may be burned and the per-  
7 son must comply with the Visible Air Contaminants 170.100 of  
8 this ordinance. All exempted households must also have a per-  
9 mit.

10  
11 (2) LOW INCOME EXEMPTION. A person who demonstrates economic  
12 need by certifying through proof that his/her income is less  
13 than 1.12 times the very low income guidelines established by  
14 the United States Office of the Management and Budget, U.S. De-  
15 partment of Housing and Urban Development, may be granted an  
16 exemption as outlined above. Such exemptions are given free  
17 of charge from Klamath County Air Quality upon application.  
18 All low income exempted families have until December 31, 1997,  
19 to install a secondary heat source that they can afford to op-  
20 erate in lieu of a solid fuel-fired heating appliance on red  
21 and yellow days.

22  
23 (3) SOLE SOURCE. Residents whose sole source of heat is a  
24 solid fuel-fired heating appliance may be granted an exemption  
25 as outlined above. All sole source heat households, except  
26 those that are tenant occupied, have until December 31, 1995,  
27 in which to install a secondary heat source. No exemptions  
28 will be issued after this date unless that person qualifies un-  
29 der the low income exemption.

30  
31 170.400 Variances.

32  
33 (1) HEALTH AND/OR SAFETY ISSUES. Variances are available only  
34 through Klamath County Air Quality. Burning conducted under  
35 the terms of a variance must be carried out in compliance with  
36 fire permits issued by county fire departments or Oregon State  
37 Forestry. All fires must be out by sunset. Variances are  
38 available.

39  
40 (2) EMERGENCY CONDITIONS. An Air Quality Control Area-wide  
41 exemption to 170.150 shall be granted during periods in which:  
42 utilities declare energy shortages or electrical power outages  
43 occur. Enforcement action will be dropped when interruptions  
44 occur of natural gas supplies or temporary failure occurs of a  
45 homeowner's space heating system when there is an immediate  
46 need to operate a solid fuel space heating device to protect  
47 family/individual health.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
AUG 07 1991  
AIR QUALITY DIVISION

1 170.450 Enforcement.  
2

3 (1) NOTICE OF NONCOMPLIANCE. When Klamath County Air Quality  
4 inspectors have visually observed that a person has violated  
5 the terms of this ordinance, a Notice and Order setting forth  
6 the alleged violation shall be issued. The Notice shall be  
7 served by Certified Mail with a return receipt requested. Such  
8 Notice and Order will specify corrective action that must be  
9 taken (except for notices to cease and desist from operation of  
10 a polluting device). Violators will have five days to take  
11 corrective action. The violator will notify Klamath County Air  
12 Quality that such corrective action has been taken. During the  
13 first year following adoption, an exemption of Notice and Order  
14 will be granted to low income homeowners where exemptions reg-  
15 istration with Klamath County Air Quality may apply, as pro-  
16 vided for under 170.350.  
17

18 (2) ISSUANCE OF SUMMONS AND COMPLAINT. When a person has not  
19 complied with the Notice and Order, the County shall issue a  
20 Compliance Order and/or Summons and Complaint with the Court of  
21 competent jurisdiction for violation of this Ordinance. The  
22 County may also obtain injunctive relief, abate the nuisance or  
23 otherwise correct the violation of this Ordinance through the  
24 Court.  
25

26 (3) AREA OF APPLICABILITY OF ORDINANCE. This Ordinance shall  
27 apply within all areas of the county as designated in the ordi-  
28 nance. The essential pollution monitoring area is the Air  
29 Quality Control Area and the Klamath Falls Urban Growth Bound-  
30 ary (as defined in 170.005) including applying within the in-  
31 corporated limits of the City of Klamath Falls upon consent of  
32 City of Klamath Falls City Council.  
33

34 170.500 Penalty Schedule.  
35

36 (1) VIOLATION OF AIR ADVISORY CURTAILMENT CALLS. Continued op-  
37 eration of a solid-fuel fired device without an exemption or  
38 performing open burning following the declaring of a red or  
39 yellow advisory will result in enforcement action. The penalty  
40 which may be imposed upon conviction based on Summons and Com-  
41 plaint for violation of any provision of 170.100 or 170.150  
42 (excluding Prohibited Materials Burning) shall be:  
43

44 (a) First offense violators of this Ordinance may re-  
45 ceive a warning. Klamath County Air Quality shall notify  
46 the violator, by registered mail, of their noncompliance  
47 and of the penalty schedule.



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(b) First offense violations of this Ordinance may be punishable by a fine of TWENTY FIVE DOLLARS (\$25.00).

(c) Second offense violations of this Ordinance shall be punishable by a fine of ONE HUNDRED DOLLARS (\$100.00)

(d) Subsequent violations shall be punishable by a maximum fine of TWO HUNDRED FIFTY DOLLARS (\$250.00) per occurrence.

(2) FAILURE TO OBTAIN REQUIRED PERMITS. Failure to obtain a permit for a solid fuel-fired heating appliance, incinerator, burn barrel or open burning pile shall be punishable by a fine of FIFTY DOLLARS (\$50.00) for each day the violator continues to operate without a permit.

Nothing in this Section shall restrict the authority of the Court to enforce injunctive relief.

(3) PROHIBITED MATERIALS BURNING PENALTIES. The maximum penalty which may be imposed upon conviction based on Summons and Complaint for violation of the provisions of Section 3.6, and Section 7.1, of this ordinance shall be:

(a) First offense violations shall be punishable by a fine of FIFTY DOLLARS (\$50.00).

(b) Second offense violations shall be punishable by a fine of ONE HUNDRED DOLLARS (\$100.00).

(c) Subsequent violations shall be punishable by a fine of FIVE HUNDRED DOLLARS (\$500.00) per occurrence.

170.550 Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

170.600 Right of Review.

(1) Review Body. Anyone against whom an enforcement action is taken by Klamath County Air Quality under the provisions of this ordinance has the Right of Review. Such review will be before the Klamath County Hearings Officer or the appropriate court: District Court or Justice Court per Klamath County Code Chapter 500.

- 1 (2) Conduct of Hearing. The Hearings Officer shall conduct an  
2 Enforcement Hearing in accordance with Article 24.  
3
- 4 (a) The Hearings Officer shall hear testimony and con-  
5 sider other evidence concerning the conditions constitu-  
6 ting cause to enforce this code.  
7
- 8 (b) Respondents to enforcement actions may be present at  
9 such hearing, may be represented by a person of his/her  
10 choice and may present testimony.  
11
- 12 (c) The hearing need not be conducted according to techni-  
13 cal rules relating to evidence and witnesses, and may be  
14 continued.  
15
- 16 (d) The Hearings Officer shall consider the evidence and  
17 make findings to support any action which the Hearings  
18 Officer is empowered to take by this code, including, but  
19 not limited to enforcement. Thereafter, the Hearing Of-  
20 ficer shall issue an order within 15 days following the  
21 enforcement hearing.  
22
- 23 170.650 Contingency Strategies. The following Best Available  
24 Control Measures (BACM) to meet U.S. Environmental Protection  
25 Agency requirements will automatically become a part of this  
26 ordinance and as enforceable should Klamath County fail to at-  
27 tain the National Ambient Air Quality Standard within the time  
28 frame specified by the federal Clean Air Act of 1990.  
29
- 30 (1) Dust control chemicals or laying of asphalt will be re-  
31 quired of property owner of record on barren lots on which veg-  
32 etation has been beaten down from use, public or private land-  
33 fill sites, abandoned construction sites and abandoned  
34 quarry/concrete sites within the Urban Growth Boundary.  
35
- 36 (2) Private or publicly owned hauling trucks with dirt/rock  
37 loads will be covered within the Urban Growth Boundary whether  
38 parked or travelling on city, county or state maintained road-  
39 ways.  
40
- 41 (3) Construction sites within the Urban Growth Boundary will  
42 be required to have an asphalt trackout strip to reduce dust  
43 within the Urban Growth Boundary.  
44
- 45 (4) No off-road driving by any kind of vehicle in fields and  
46 hillsides will be allowed within the Urban Growth Boundary, un-  
47 less such field or hillside is a construction or other orga-  
48 nized use site.

1 (5) Noncertified stoves remaining in a house within the Urban  
2 Growth Boundary will be removed upon the sale of that home. A  
3 Building Department Certification of Removal will be required  
4 at time of sale.  
5

6 (6) Only dry/seasoned firewood may be sold or given away  
7 within Klamath County from July 1 of the current year to March  
8 31 of the following year. All commercial cordwood vendors must  
9 provide a "Dry Wood Certificate" to wood purchasers during this  
10 time period. Vendors are required to have their wood moisture  
11 meter checked.  
12

13 (7) Expansion of 170.05 (2) Air Quality Control Area (See Ex-  
14 hibit C). Sections 170.100 (1) Visible Air Contaminants,  
15 170.150 Pollution Prohibitions, 170.250 Registration and Per-  
16 mit, 170.350 Exemptions, 170.450 Enforcement, 170.500 Penalty  
17 Schedule and 170.600 Right of Review all apply.  
18

19 (8) The voiding of all voluntary smoke plans will occur.  
20 Following of Klamath County Burn Advisories will be mandatory  
21 for forestry slash burning and agricultural opening burning of  
22 all kinds in Klamath County, no variances will be allowed.  
23

24 (9) Only one solid fuel-fired heating appliance may be in-  
25 stalled in new home construction.  
26

27 Passed and adopted by the Board of County Commissioners  
28 this 31<sup>st</sup> day of July 1991.  
29

30 BOARD OF COUNTY COMMISSIONERS  
31

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35 HARRY FREDRICKS, Chairman  
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40 WES SINE, Commissioner  
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45 ED KENTNER, Commissioner

AN ORDINANCE CONSENTING TO THE APPLICATION  
OF THE KLAMATH COUNTY AIR QUALITY PROGRAM  
ORDINANCE WITHIN THE CITY LIMITS

WHEREAS, Klamath County has adopted a mandatory air quality program and established boundaries and enforcement controls through Ordinance No. 63, a copy of which is attached hereto; and

WHEREAS, ORS 203.040 and subsection 170.450 (3) of the County's Code adopted pursuant to said County Ordinance both require City Council consent to make the County Ordinance applicable within the City limits; and

WHEREAS, the City Council desires to cooperate with Klamath County in addressing the community's serious health and economic problems associated with wood smoke during certain days of the year; NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

The City consents to the application of Klamath County Ordinance No. 63 within the City Limits.

Passed by the Council of the City of Klamath Falls, Oregon, this 16th day of September, 1991.

Presented to the Mayor and by him approved and signed this 16th day of September, 1991.

Charles J. R. [Signature]  
Mayor Pro-tem

ATTEST: [Signature]  
City Recorder

STATE OF OREGON                    )  
COUNTY OF KLAMATH            )ss.  
CITY OF KLAMATH FALLS         )

I, Elisa D. Fritz, Recorder for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon, at the regular meeting held on the 16th day of September, 1991, and thereafter approved and signed by the Mayor and attested by the City Recorder.

[Signature]  
City Recorder

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THE COUNCIL OF THE TOWN OF LAKEVIEW

ESTABLISHMENT OF A )  
LAKEVIEW AIR QUALITY )  
IMPROVEMENT PROGRAM )

RESOLUTION NO. 402

WHEREAS, the Town of Lakeview recognizes the importance of maintaining healthful air quality; and

WHEREAS, the economic growth of the Town of Lakeview requires clean air; and

WHEREAS, the federal Clean Air Act and amendments thereto mandate that air quality in all communities must attain and maintain the National Ambient Air Quality Standard to protect public health; and

WHEREAS, air quality within the Lakeview area has been determined to be in noncompliance with the National Ambient Air Quality Standard for particulate matter (PM10); and

WHEREAS, the establishment of an air quality improvement program is necessary to accomplish the foregoing goals;

IT IS HEREBY RESOLVED by the Town Council of the Town of Lakeview, Oregon that a Lakeview air quality improvement program be established to restore and maintain healthful air quality within the Town of Lakeview. Said program shall be a cooperative effort with Lake County, the Town of Lakeview, the Department of Environmental Quality and other involved parties.

IT IS FURTHER RESOLVED by the Council of the Town of Lakeview that such air quality plan shall be drafted and formulated by the Town's Air Quality Committee for the ultimate purpose of obtaining an approximate 25% reduction in pollutant emissions in order to reach the attainment standard imposed by the federal Clean

Air Act. The air quality improvement program shall implement, but is not necessarily limited to, the following procedures and programs:

(a) The establishment of a voluntary curtailment program which would achieve a compliance rate of approximately 30% to 35% for the purpose of reducing wood smoke emissions. Such voluntary program shall include a public information program, the establishment of a daily curtailment advisory call, and neighborhood drive through surveys.

(b) The operation of a woodstove replacement program for the purpose of replacing approximately 80 non-certified woodstoves in low income homes within the Town of Lakeview.

(c) The making of recommendations regarding the enactment of an ordinance prohibiting the burning of waste and establishing restrictions on open burning.

(d) The making of recommendations regarding the establishment of an ordinance prohibiting the use of solid fuel burning and establishing a mandatory program in the event the voluntary program does not achieve the required participation rate.

(e) Any other programs or policies, if approved by the Town Council, that would aid in improving air quality within the Town of Lakeview.

PASSED AND DATED this 28th day of February, 1994.

  
Sherry Landers, Recorder/Custodian

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ATTACHMENT

LAKEVIEW AIR QUALITY IMPROVEMENT PROGRAM

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## Lakeview Air Quality Improvement Program

### I. STATEMENT OF THE PROBLEM

On May 13, 1992, the Town of Lakeview was notified by the State of Oregon's Department of Environmental Quality that the Town had exceeded the National Ambient Air Quality Standard (NAAQS) for particulate matter. Air sampling conducted since October 1991 determined that PM10 particulate matter concentrations exceeded the 24-hour NAAQS, and that a State Implementation Plan (SIP) describing and implementing control strategies to restore healthful air quality would be needed. For Lakeview, the Clean Air Act Amendments of 1990 require that such an "attainment plan" be adopted by the State of Oregon prior to April 25, 1995. If the State of Oregon and the Town of Lakeview fail to develop and implement such a plan, the US Environmental Protection Agency has the authority to impose a Federal Implementation Plan.

The boundaries of the airshed, which has been classified as PM10 non-attainment, is the area within Lakeview's urban growth boundary.

In response to the need to develop a framework for a PM10 attainment plan, the Town of Lakeview established a citizens Air Quality Advisory Committee. The basic premise under which the committee operates is that good quality air is a valuable resource, is important to public health, and is important to the economic well being of the community.

### II. AIR QUALITY PROGRAM ESTABLISHED

It is the Town of Lakeview's goal to attain, as soon as possible, the National Ambient Air Quality Standards for particulate matter (PM10) and to maintain healthful air quality in the future. To assure that this goal is met, the Town of Lakeview hereby establishes an Air Quality Program to be implemented by the community. All elements of the Air Quality Program will be implemented by a coordinator working in cooperation with the Town Attorney, the Town Council, public advisory committees and other governmental agencies.

The Town of Lakeview's program shall be developed and implemented in cooperation with Lake County for that area lying inside the Town's urban growth boundary, but outside the Town Limits.

### III. COMMITMENT OF TOWN, STATE AND FEDERAL RESOURCES

In establishing the Air Quality Program, the Town of Lakeview hereby commits support to the Program, both in terms of staff time and material resources. The level of funding support is contingent upon available revenues and program needs. These resources will be

## Lakeview Air Quality Improvement Program

supplemented by air quality and meteorological monitoring services as well as program support grants provided by the Environmental Protection Agency (EPA) and other funding sources. The Department of Environmental Quality (DEQ) and the Town of Lakeview estimate that the combined total effort of staff time and programs will cost approximately \$10,000-\$15,000 per year.

### IV. ADVISORY COMMITTEE ESTABLISHED

The Town Council hereby establishes a standing Air Quality Advisory Committee. The Advisory Committee is charged with the responsibility of providing recommendations to the Council regarding air quality management within the Town of Lakeview. Committee members shall be appointed by the Town Council.

### V. ELEMENTS OF THE AIR QUALITY PROGRAM

Elements of the Town of Lakeview's Air Quality Program are described below. The program is directed toward attainment of the National Ambient Air Quality Standards for particulate matter. Phase I relies on a voluntary wood smoke curtailment effort as a initial control strategy. The second phase focuses on additional mandatory steps that will be taken should further analysis by the DEQ show mandatory curtailment to be necessary in order to achieve attainment with the NAAQS.

#### 1. Phase I Attainment Program

The first phase is composed of (a) a Public Education Program; (b) a Voluntary Wood Burning Curtailment Program; (c) prohibitions on the installation of non-certified wood stoves; (d) control of fugitive dust emissions from contributing sources; winter road sanding, mud tracking on to roadways, and other sources; (e) a program to replace uncertified wood stoves and; restrictions on open burning. All Ordinances to be implemented under the Phase I Attainment Program will be adopted prior to the Clean Air Act deadline of April 25, 1995.

Each element of the Phase I Program is discussed below:

#### (A) Public Education Program

The key to success for the overall program is a strong and effective Public Education Program that educates the community regarding the air quality program and gives them the tools to reduce PM10 particulate matter concentrations. Specific elements will include at a minimum:

1. Development and distribution of appropriate posters, brochures and pamphlets including a Lakeview fact sheet

## Lakeview Air Quality Improvement Program

focusing on the local problem; a brochure explaining federal and state air quality requirements and what it means to the average Lakeview citizen and an explanation of the health effects caused by poor quality air.

2. Wood burning public information materials, including information on selecting a stove of the correct size, how to buy a certified wood stove or other non-wood burning heating system, tips on the efficient operation of a wood stove and fireplace, and a wood heating safety checklist. Brochures on fuel wood selection, characteristics, and wood seasoning will also be provided to the public.

3. Support for public forums on health effects of wood smoke and air quality that may be hosted by local groups.

4. News media involvement may include print, radio and television public service announcements, press releases, interviews, panel discussions and news reports. Photographs and advertisements will also be included in the Public Education Program.

5. In-person contact: Households which are noted to have excessive smoke from residential wood heating may be contacted in-person by Town staff and offered educational material on the air quality program, smoke related health issues, and other relevant materials.

Other elements which may be included are:

6. Contests and presentations through the school system to educate children on the seriousness of the problem.

7. Formation of a Speaker's Bureau to inform local groups on the nature of the problem, solutions, and the need for public involvement.

8. Public meetings may be held by local governmental bodies to discuss air quality issues.

9. All town agencies will display air quality educational materials. Private industries and businesses will be encouraged to distribute educational materials regarding the air program.

10. Promote displays explaining air quality conditions in Lakeview and proper wood stove operation during community activities: i.e., County Fair, Earth day, home shows, etc.

Lakeview Air Quality Improvement Program

(B) Wood heating Curtailment Program

The Town of Lakeview Voluntary Wood Burning Curtailment Program is the principal means to attain the National Ambient Air Quality Standards (NAAQS). If the Department of Environmental Quality (DEQ), in consultation with the Town of Lakeview and Lake County, determines that the Voluntary Program is insufficient to show attainment with the NAAQS and it is determined that emissions from residential wood burning are a significant contributing source to the PM10 particulate matter concentrations, a Mandatory Curtailment (Phase II) Program will be implemented. An Ordinance shall be drafted and submitted for adoption establishing, as needed, either a Voluntary or Mandatory Wood Smoke Curtailment Program.

Control measures implemented under a curtailment program include establishment of a Monitoring Program, a Public Education Program, measures to encourage improved performance of wood burning devices and inducements that will promote the use of high efficiency, clean burning heating appliances.

The Voluntary Program will consist of the following elements:

1. Air Quality forecasting information will be provided by the Oregon Department of Environmental Quality (DEQ), State Department of Forestry Smoke Meteorologist, or other appropriate agency. The forecasts will be based on National Weather Service and regional weather information as well as recent local measurements of air quality conditions. The DEQ will provide the air quality and weather measurements, and ensure the availability of forecasting, as well as provide a telephone answering machine to be used for the daily advisory announcement. Curtailment advisories will be provided to the public at the same time each day.

2. Wood Burning Curtailment Advisories will be the responsibility of the Town of Lakeview each day beginning no later than November 1 and continuing through February 28. At least one advisory will be issued each day substantially as follows:

"Green" Advisory

The "Green" wood burning advisory is called when air ventilation is forecasted to be good. Residential wood burning will be unrestricted during "Green" periods.

## Lakeview Air Quality Improvement Program

### "Yellow" Advisory

The "Yellow" advisory is made when air ventilation is forecasted to be poor and PM10 levels are forecasted to be elevated. All residents, except those with DEQ or EPA certified stoves, wood pellet stoves and persons using wood as a sole source of heat, are asked to curtail wood burning for the next 24 hours. Those continuing to burn are asked to use dry, well-seasoned wood; build small, hot fires and not dampen down their stoves.

### "Red" Advisory

The "Red" advisory is made when air ventilation is forecasted to be poor and PM10 levels are forecasted to be approaching the NAAQS.

All residents, except those using wood as a sole source of heat or those using pellet stoves, are asked to curtail wood burning for the next 24 hours. Those continuing to burn are asked to use dry, well-seasoned wood; build small, hot fires and not dampen down their stoves.

The Town and Department of Environmental Quality will develop the criteria for establishing the Green, Yellow, and Red Day advisory. The wood burning advisories will be made available to the public through a telephone recording system and media announcements.

### (C) Curtailment Program

This program will consist of periodic neighborhood surveys during both curtailment and non-curtailment periods. Results from these surveys will be used to evaluate the effectiveness of the Voluntary Curtailment Program and as a means of identifying areas that need to improve operation of their wood burning devices. The Town may take note of homeowners observed improperly operating wood stoves and provide information regarding proper wood burning techniques, and the Voluntary Curtailment Program.

### (D) Uncertified Wood Stove Replacement Program

The Town will operate an uncertified wood stove replacement program. The program shall provide for the replacement of uncertified wood stoves in homes which use wood as a sole or primary source of heat. The Program shall give priority to low income homes. All uncertified wood stoves removed under this program shall be destroyed.

Lakeview Air Quality Improvement Program

(E) Ban on Installation of Non-Certified Wood Stoves

The Oregon Building Code prohibits the installation of non-certified wood stoves.

(F) Open Burning Restrictions

An Ordinance shall be drafted and submitted to the Town Council for adoption prohibiting open burning and the use of burn barrels from October 1st through February 29th each year except by permit.

(G) Burning of Wastes

An Ordinance shall be drafted and submitted for adoption prohibiting the burning in a wood stove or fireplace of wet or dry garbage; plastic; wire insulation; automobile parts; asphalt; petroleum products; petroleum treated materials; rubber products; animal remains, or animal or vegetable matter resulting from the preparation, cooking or service of food; disposable diapers; Styrofoam; chemically treated lumber; or any other material which normally emits dense smoke or noxious odors. Open burning of these materials shall be regulated as provided under Department of Environmental Quality, Oregon Administrative Rule Chapter 340 Division 23.

(H) Home Weatherization

The Town Council directs the coordinator to explore the feasibility of a Home Weatherization Program for low income homeowners or senior citizens to reduce their use of wood for space heating.

(I) Dust Control

Dust from winter road sanding within the Lakeview urban growth boundary is an occasional contributing source to PM10 particulate matter concentrations. The Town Council hereby directs the coordinator to proceed with the development of programs and Ordinances necessary to implement the following control program elements:

1. The Town Public Works policy will be as follows: After application, rapid clean-up of road sanding with a mechanical sweeper or other device shall be conducted as soon as practicable. The Town and the DEQ will also work with the Oregon State Highway Division to encourage their use of rapid clean-up and cleaner aggregate on state highways within the urban growth boundary;

## Lakeview Air Quality Improvement Program

There is on going investigation into the effect of unpaved mill yards, unpaved roads, mud being tracked onto highways, etc.; and how to control those situations that are detrimental to good air quality.

### 2. Phase II Attainment Program

In the event that analysis by the Department of Environmental Quality, in consultation with the Town of Lakeview and Lake County, determines the Phase I Attainment Program to be inadequate to demonstrate attainment with the NAAQS for particulate matter, and it is determined by the DEQ that emissions from residential wood burning are a significant contributing source to the non-attainment problem, the Phase II Attainment Program shall be implemented.

The principal element of the Phase II program is a Mandatory Wood Burning Curtailment Program designed to assure at least a sixty-five percent (65%) reduction in wood smoke emissions on poor air quality winter days.

The Phase II Attainment Program includes all elements of the Phase I Program, substituting only the Mandatory Curtailment Program for the Phase I Voluntary Program.

#### (A) Mandatory Wood Burning Curtailment Program

The Town is hereby requested to develop a Mandatory Wood Burning Curtailment Ordinance in accordance with the National Clean Air Act which shall include all of the elements of the Phase I Voluntary Program described above plus the enforcement and penalty elements described below.

The Compliance Program shall include a frequency of neighborhood drive-through surveys in order to document public participation and compliance with the mandatory provisions; and through the enactment of an ordinance, a compliance policy which includes a schedule of penalties.

#### (B) Contingency Strategy Best Available Control Measures

The Clean Air Act Amendments of 1990 require the implementation of additional emission control measures should Lakeview fail to attain the National Ambient Air Quality Standards. Best Available Control Measures (BACM) would require a greater level of emission reduction from contributing pollution sources such as residential wood heating and industry. Such measures must be added to this program and implemented within three years of



## Lakeview Air Quality Improvement Program

notification by the Environmental Protection Agency that Lakeview has failed to attain the NAAQS. If required, the Town of Lakeview is committed to the review and inclusion of such measures.

### VI. PERIODIC PROGRAM REVIEW

The Lakeview Air Quality Program shall be reviewed each year by the Air Quality Advisory Committee, the Town of Lakeview, and the Department of Environmental Quality. The Town Air Quality Coordinator shall annually prepare a report describing the Town's progress toward attaining and maintaining the National Ambient Air Quality Standards, including recommendations received from the Advisory Committee to improve the program.

BEFORE THE BOARD OF COMMISSIONERS FOR LAKE COUNTY

ESTABLISHMENT OF A  
LAKEVIEW URBAN GROWN BOUNDARY  
AIR QUALITY IMPROVEMENT PROGRAM)

RESOLUTION

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 27 1993

AIR QUALITY DIVISION

WHEREAS, the Town of Lakeview and Lake County  
recognizes the importance of maintaining healthful air quality;  
and

WHEREAS, the economic growth of the Town of Lakeview  
and Lake County requires clean air; and

WHEREAS, the federal Clean Air Act and amendments  
thereto mandate that air quality in all communities must attain  
and maintain the National Ambient Air Quality Standard to protect  
public health; and

WHEREAS, air quality within the Lakeview area has been  
determined to be in non-compliance with the National Ambient Air  
Quality standard for particulate matter (PM10); and

WHEREAS, the establishment of an air quality  
improvement program is necessary to accomplish the foregoing  
goals;

IT IS HEREBY RESOLVED by the Lake County Commission  
that a Lakeview air quality improvement program be established to  
restore and maintain healthful air quality within the Urban  
Growth Boundary of the Town of Lakeview. Said program shall be a  
cooperative effort with Lake County, the Town of Lakeview, the  
Department of Environmental Quality and other involved parties.

IT IS FURTHER RESOLVED by the Commissioners of Lake  
County that such air quality plan shall be drafted and formulated

by the Lakeview Air Quality Committee for the ultimate purpose of obtaining an approximate 25% reduction in pollutant emissions in order to reach the attainment standard imposed by the federal Clean Air Act. The air quality improvement program shall implement, but is not necessarily limited to, the following procedures and programs:

(a) The establishment of a voluntary curtailment program which would achieve a compliance rate of approximately 30% to 35% for the purpose of reducing wood smoke emissions. Such voluntary program shall include a public information program, the establishment of a daily curtailment advisory call, and neighborhood drive through surveys.

(b) The operation of a woodstove replacement program for the purpose of replacing approximately 80 non-certified woodstoves in low income homes within the Town of Lakeview and the surrounding Urban Growth Boundary.

(c) The making of recommendations regarding the enactment of an ordinance prohibiting the burning of waste and establishing restrictions on open burning.

(d) The making of recommendations regarding the establishment of an ordinance prohibiting the use of solid fuel burning and establishing a mandatory program in the event the voluntary program does not achieve the required participation rate.

(e) Any other programs or policies, if approved by the County Commissioners, that would aid in improving air quality within the Town of Lakeview and surrounding Urban Growth

Boundary.

PASSED AND DATED this 15 day of March, 1995.

Jeremiah O'Leary  
Jeremiah O'Leary, Chairman

Janis O'Keefe  
Janis O'Keefe, Commissioner

Robert M. Fardio  
Robert M. Fardio, Commissioner

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LAKEVIEW ORDINANCES

ORDINANCE NO. 748

RECEIVED  
MAR 10 1995

AIR QUALITY DIVISION  
District of Columbia

AN ORDINANCE PROHIBITING THE USE OF SOLID FUEL BURNING DEVICES, PROVIDING CERTAIN EXEMPTIONS AND ESTABLISHING ENFORCEMENT CONTROLS THEREFOR.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview are adversely affected by the deterioration of air quality within the town limits; and

WHEREAS, wood combustion for space heating produces particulate matter and other pollutants which are injurious to the public health, and are a primary cause of deteriorated air quality within the Town of Lakeview; and

WHEREAS, a mandatory wood burning curtailment ordinance is essential to comply with the provisions of the federal Clean Air Act and assure healthful air quality; now, therefore,

THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

**SECTION 1. DEFINITIONS:**

As used in this ordinance, the following words, except where the context clearly indicates otherwise, mean:

(a) Air Pollution Alert: A 21 hour period commencing three hours after the designation by the Town of Lakeview of a Yellow Day or Red Day Air Quality Advisory.

(b) Air Quality Advisory: A public announcement to inform Town of Lakeview residents of forecasted air quality.

(c) Alternative Heat Source: A heat source other than a Solid Fuel Burning Device, with such heat source being capable of heating a residence in accordance with Oregon Building Code standards.

(d) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(e) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM10 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM10 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(f) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM10 concentrations at levels which are at risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(g) Person: Any individual, partnership, corporation, company or other association.

(h) Oregon Certified Wood Stove: A Solid Fuel Burning Device certified by the United States Environmental Protection Agency or the Oregon Department of Environmental Quality as meeting emission performance standards specified in Oregon Administrative Rules, 340, Division 34, now in effect or which may be amended from time to time.

(i) Residence: A building used as a home, dwelling or place of abode.

(j) Sole Source of Heat: One or more Solid Fuel Burning Devices which constitutes the only source of heat in a Residence.

A Sole Heat Source is one which provides heat to the main living space of the Residence but does not include ancillary heating units in bed and bathroom areas.

(k) Solid Fuel Burning Device: A device designed for solid fuel combustion so that usable heat is derived for the interior of a Residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stoves.

(l) Warning: An official notification that a person has been found by the Town of Lakeview to be burning on a non-authorized day.

## **SECTION 2: OPERATION OF SOLID FUEL BURNING DEVICE PROHIBITION:**

(a) The operation of a Solid Fuel Burning Device within the Town of Lakeview during an Air Pollution Alert Period shall be prohibited unless an exemption has been granted by the Town of Lakeview pursuant to Section 3 below. A rebuttable presumption of a violation for which a warning or citation shall be issued shall arise if smoke is being discharged through a flue or chimney at any time during an Air Pollution Alert Period. Any person residing in the premises who is over the age of 18 shall be presumed to be the violator unless rebutted by contrary evidence.

(b) Visible smoke emissions created during a thirty (30) minute start up period and thirty (30) minutes after refueling are



exempt but such refueling shall be limited to once every four (4) hours.

(c) On or after two years from the effective date of this ordinance, no property owner shall rent or lease a Residence unless the same is equipped with an Alternative Heat Source. If the owner violates this subsection, the tenant shall not be charged with a violation thereof.

### SECTION 3. EXEMPTIONS FROM PROHIBITION:

It shall be permissible for a Residence to operate a Solid Fuel Burning Device during a Red or Yellow Day when the head of that household has previously obtained from the Town of Lakeview Air Quality Office an exemption to operate the same. Exemption availability shall be limited to the following conditions:

(a) Sole Source: An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a Solid Fuel Burning Device as the sole device providing heat for the main living space of their Residence. The availability of this exemption shall expire on or after two years from the effective date of this ordinance.

(b) Economic Need: An exemption for economic need to operate a Solid Fuel Burning Device may be granted to heads of households who otherwise qualify under the Sole Source exemption if the head of household can show that the total family income is less than 80% of the median income level for the Town of Lakeview as established by the Federal Department of Housing and Urban Development. There shall be no time limitation on the availability

of this particular exemption.

(c) Oregon Certified Wood Stoves: An exemption may be issued to the heads of household for the operation of an Oregon Certified Wood Stove in a Residence during a Yellow Day Air Quality Advisory. However, the availability of this exemption is strictly contingent upon the Oregon Certified Wood Stove producing no visible smoke. The operation of an Oregon Certified Wood Stove shall be prohibited during a Red Day Air Quality Advisory, unless some other applicable exemption has been granted.

#### **SECTION 4. ENFORCEMENT AND PENALTIES:**

Violation of a provision of this ordinance is punishable as follows:

(a) First offense violators of this ordinance shall receive a warning. The Town of Lakeview Air Quality Office shall notify the violator of their non-compliance by registered mail, which notice shall contain the penalty schedule.

(b) Second offense violators of this ordinance shall be punishable by a fine not to exceed \$25.00.

(c) Third offense violators of this ordinance shall be punishable by a fine not to exceed \$100.00.

(d) Subsequent violations shall be punishable by a maximum fine not to exceed \$250.00 per occurrence.

#### **SECTION 5. IMPLEMENTATION:**

This ordinance shall automatically become enforceable without further action by the Town of Lakeview, should the Town of

Lakeview fail to demonstrate to the Oregon Department of Environmental Quality reasonable further progress at the time said department conducts its air quality evaluation or if the Town of Lakeview fails to attain the National Air Quality Standard within the time frame specified by the federal Clean Air Act of 1990. Correspondingly, should the Town of Lakeview meet the Air Quality Standard imposed by the federal Clean Air Act of 1990, then this ordinance is of no force and effect.

**SECTION 6. SEVERABILITY:**

If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not effect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of the Town of Lakeview and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect at the time specified in Section 5 above.

No council member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Council of the Town of Lakeview and adopted on February 28, 1995.

  
Sherry Landers, Recorder/Custodian

LAKEVIEW ORDINANCES

ORDINANCE NO. 749

AN ORDINANCE PROHIBITING THE BURNING OF WASTE; RESTRICTING OPEN BURNING AND REPEALING ORDINANCE NO. 581.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview are adversely affected by the deterioration of air quality within the town limits; and

WHEREAS, unrestricted open burning and the burning of waste are injurious to public health and are a primary source of causing the deteriorated air quality; and

WHEREAS, an open burning and waste burning curtailment ordinance is essential in complying with the provisions of the federal Clean Air Act and to assure healthful air quality; now, therefore

THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS: As used in this ordinance, the following words, except, where the context clearly indicates otherwise, mean:

(a) Open Burning: Burning in burn barrels or incinerators, open outdoor fires and any other burning where combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(b) Permit: Written evidence indicating that an open burning activity, which would otherwise be prohibited by this ordinance, is permissible under certain circumstances and which is obtainable from the Lakeview Fire Department.

(c) Person: Any individual, partnership, corporation, company or other association.

(d) Solid Fuel Burning Device: A device designed for solid fuel combustion so that usable heat is derived for the interior of a residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stoves.

(e) Waste: Wet or dry garbage, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the preparation, cooking or service of food, disposable diapers, styrofoam, chemically treated lumber, or any other material, including commercial and industrial waste, which normally emits dense smoke or noxious odors.

(f) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(g) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM10 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM10 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(h) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM10 concentrations at levels which are at risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 150-ug/m3.

SECTION 2. BURNING OF WASTE: The burning of waste at any time, whether by open burning or in a solid fuel burning device, as defined herein, is prohibited within the Town of Lakeview.

SECTION 3. RESTRICTIONS ON OPEN BURNING: All open burning is prohibited within the Town of Lakeview unless a permit for the same has been obtained.

SECTION 4. OPEN BURNING PERMITS: Open burning, which would otherwise be prohibited by the terms of this ordinance, may be permitted if a permit for the same is obtained from the Lakeview Fire Department. An open burning permit shall only be issued during a Green Advisory Period. Permits shall only be used on the day that it is issued and all open burning shall be completed prior to sundown. The Fire Chief of the Town of Lakeview is hereby authorized to issue such permits to residents of the Town of Lakeview subject to such reasonable terms and conditions as the Fire Chief, in his sole discretion, shall deem advisable for the protection of the residents of the Town of Lakeview. The terms and conditions of the open burning permit shall be specifically and expressly set forth on the permit. The issuance of a permit imposes no liability on the Town of Lakeview for any damage caused by open burning and the sole risk thereof lies with the person

obtaining the permit.

SECTION 5. ABATEMENT, ENFORCEMENT AND PENALTIES: Any violation of this ordinance or non-compliance with any of the provisions hereof shall be subject to legal proceedings to abate or enjoin such violation or non-compliance. In addition to abatement or injunctive proceedings, the following penalties may be imposed for violations or non-compliance:

(a) First offense violators of this ordinance shall receive a warning. The Town of Lakeview Air Quality Office shall notify the violator of their non-compliance by registered mail, which notice shall contain the penalty schedule.

(b) Second offense violators of this ordinance shall be punishable by a fine not to exceed \$25.00.

(c) Third offense violators of this ordinance shall be punishable by a fine not to exceed \$100.00.

(d) Subsequent violations shall be punishable by a maximum fine not to exceed \$250.00 per occurrence.

SECTION 6. SEVERABILITY: If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of the Town of Lakeview and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect after

its passage by the Lakeview Town Council.

No council member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Council of the Town of Lakeview and adopted on February 28, 1995.

  
Sherry Landers, Recorder/Custodian



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LAKE COUNTY ORDINANCES

ORDINANCE NO. 29

AN ORDINANCE PROHIBITING THE USE OF SOLID FUEL BURNING DEVICES; PROVIDING CERTAIN EXEMPTIONS AND ESTABLISHING ENFORCEMENT CONTROLS THEREFORE.

WHEREAS, the health, safety and welfare of the citizens of Lake County are adversely affected by the deterioration of air quality within the Urban Growth Boundary of the Town of Lakeview; and

WHEREAS, wood combustion for space heating produces particulate matter and other pollutants which are injurious to the public health, and are a primary cause of deteriorated air quality within the Urban Growth Boundary of the Town of Lakeview; and

WHEREAS, a mandatory wood burning curtailment ordinance is essential to comply with the provisions of the federal Clean Air Act and assure healthful air quality; now, therefore,

LAKE COUNTY ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS:

As used in this ordinance, the following words, except where the context clearly indicates otherwise, mean:

(a) Air Pollution Alert: A 21 hour period commencing three hours after the designation by the Town of Lakeview of a Yellow Day or Red Day Air Quality Advisory.

(b) Air Quality Advisory: A public announcement to inform Lakeview area residents of forecasted air quality.

(c) Alternative Heat Source: A heat source other than a Solid Fuel Burning Device, with such heat source being capable

of heating a residence in accordance with Oregon Building Code standards.

(d) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(e) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM10 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM10 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(f) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM10 concentrations at levels which are a risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(g) Person: Any individual, partnership, corporation, company or other association.

(h) Oregon Certified Wood Stove: A Solid Fuel Burning Device certified by the United States Environmental Protection Agency or the Oregon Department of Environmental Quality as meeting emission performance standards specified in Oregon Administrative Rules, 340, Division 34, now in effect or which may be amended from time to time.

(i) Residence: A building used as a home, dwelling or place of abode.

(j) Sole Source of Heat: One or more Solid Fuel Burning Devices which constitutes the only source of heat in a Residence. A Sole Heat Source is one which provides heat to the main living space of the Residence but does not include ancillary heating units in bed and bathroom areas.

(k) Solid Fuel Burning Device: A device designed for solid fuel combustion so that usable heat is derived for the interior of a Residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves or any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stove.

(l) Warning: An official notification that a person has been found by the Town of Lakeview or Lake County to be burning on a non-authorized day.

## SECTION 2: OPERATION OF SOLID FUEL BURNING DEVICE PROHIBITION:

(a) The operation of a Solid Fuel Burning Device within the Urban Growth Boundary of the Town of Lakeview during an Air Pollution Alert Period shall be prohibited unless an exemption has been granted by the Town of Lakeview pursuant to Section 3 below. A rebuttable presumption of a violation for which a warning or citation shall be issued shall arise if smoke is being discharged through a flue or chimney at any time during an Air Pollution Alert Period. Any person residing in the premises who is over the age of 18 shall be presumed to be the

violator unless rebutted by contrary evidence.

(b) Visible smoke emissions created during a thirty (30) minute start up period and thirty (30) minutes after refueling are exempt but such refueling shall be limited to once every four (4) hours.

(c) On or after two years from the effective date of this ordinance, no property owner shall rent or lease a Residence unless the same is equipped with an Alternative Heat Source. If the owner violates this subsection, the tenant shall not be charged with a violation thereof.

### SECTION 3. EXEMPTIONS FROM PROHIBITION:

It shall be permissible for a Residence to operate a Solid Fuel Burning Device during a Red or Yellow Day when the head of that household has previously obtained from the Town of Lakeview Air Quality Office an exemption to operate the same. Exemption availability shall be limited to the following conditions:

(a) Sole Source: An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a Solid Fuel Burning Device as the sole device providing heat for the main living space of their Residence. The availability of this exemption shall expire on or after two years from the effective date of this ordinance.

(b) Economic Need: An exemption for economic need to operate a Solid Fuel Burning Device may be granted to heads of households who otherwise qualify under the Sole Source exemption

if the head of household can show that the total family income is less than 80% of the median income level for the Town of Lakeview as established by the Federal Department of Housing and Urban Development. There shall be no time limitation on the availability of this particular exemption.

(c) Oregon Certified Wood Stoves: An exemption may be issued to the heads of household for the operation of an Oregon certified Wood Stove in a Residence during a Yellow Day Air Quality Advisory. However, the availability of this exemption is strictly contingent upon the Oregon Certified Wood Stove producing no visible smoke. The operation of an Oregon Certified Wood Stove shall be prohibited during a Red Day Air Quality Advisory, unless some other applicable exemption has been granted.

#### SECTION 4. ENFORCEMENT AND PENALTIES:

Violation of a provision of this ordinance is punishable as follows:

(a) First offense violators of this ordinance shall receive a warning. The Town of Lakeview Air Quality Office shall notify the violator of their non-compliance by registered mail, which notice shall contain the penalty schedule.

(b) Second offense violators of this ordinance shall be punishable by a fine not to exceed \$25.00.

(c) Third offense violators of this ordinance shall be punishable by a fine not to exceed \$100.00.

(d) Subsequent violations shall be punishable by a

maximum fine not to exceed \$250.00 per occurrence.

**SECTION 5. IMPLEMENTATION:**

This ordinance shall automatically become enforceable without further action by Lake County should the Town of Lakeview and the Urban Growth Boundary area fail to demonstrate to the Oregon Department of Environmental Quality reasonable further progress at the time said department conducts its air quality evaluation or if the Town of Lakeview and the Urban Growth Boundary area fails to attain the National Air Quality Standard within the time frame specified by the federal Clean Air Act of 1990. Correspondingly, should the Town of Lakeview and the Urban Growth Boundary area meet the Air Quality Standard imposed by the federal Clean Air Act of 1990, then this ordinance is of no force and effect.

**SECTION 6. SEVERABILITY:**

If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not effect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of Lake County and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect at the time

specified in Section 5 above.

No commission member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Commission of Lake County and adopted on March 15<sup>th</sup>, 1995.

Dated this 15<sup>th</sup> day of March, 1995.

Jeremiah O'Leary  
Jeremiah O'Leary, Chairman

Jane O'Keefe  
Jane O'Keefe, Commissioner

Robert M. Fardus  
Robert M. Fardus, Commissioner



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LAKE COUNTY ORDINANCES

ORDINANCE NO. 30

AN ORDINANCE PROHIBITING THE BURNING OF WASTE AND RESTRICTING OPEN BURNING.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview and the surrounding Urban Growth Boundary are adversely affected by the deterioration of air quality within that area; and

WHEREAS, unrestricted open burning and the burning of waste are injurious to public health and are a primary source of causing the deteriorated air quality; and

WHEREAS, unrestricted open burning is a safety hazard during certain periods of the year; and

WHEREAS, an open burning and waste burning curtailment ordinance is essential in complying with the provisions of the federal Clean Air Act and to assure healthful air quality; now, therefore.

THE COUNTY OF LAKE ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS: As used in this ordinance, the following words, except where the context clearly indicates otherwise, mean:

(a) Open Burning: Burning in burn barrels or incinerators, open outdoor fires and any other burning where combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

(b) Permit: Written or verbal evidence indicating that an open burning activity, which would otherwise be prohibited by this ordinance, is permissible under certain

circumstances and which is obtainable from the Lakeview Fire Department.

(c) Person: Any individual, partnership, corporation, company or other association.

(d) Solid Fuel Burning Device: A device designed for solid fuel combustion so that usable heat is derived for the interior of a residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stoves.

(e) Waste: Wet or dry garbage, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the preparation, cooking or service of food, disposable diapers, styrofoam, chemically treated lumber, or any other material, including commercial and industrial waste, which normally emits dense smoke or noxious odors. Not included are clean wood wastes such as lumber, tree branches, paper and garden and yard waste.

(f) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(g) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM10 concentrations over the following 24 hour period. A Yellow Day

forecast signifies that average PM10 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

(h) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM10 concentrations at levels which are at risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 150 ug/m3.

SECTION 2. BURNING OF WASTE: The burning of waste at any time, whether by open burning or in a solid fuel burning device, as defined herein, is prohibited within the Urban Growth Boundary of the Town of Lakeview.

SECTION 3. RESTRICTIONS ON OPEN BURNING: All open burning is prohibited within the Urban Growth Boundary of the Town of Lakeview unless a permit for the same has been obtained (see Section 4).

SECTION 4. OPEN BURNING PERMITS: Open burning, which would otherwise be prohibited by the terms of this ordinance, may be permitted if a permit for the same is obtained from the Lakeview Fire Department. An open burning permit shall not be issued during a Yellow or Red Advisory Period. Permits shall only be used on the day that it is issued and all open burning shall be completed prior to sundown. The Fire Chief of the Town of Lakeview is hereby authorized to issue such permits to residents of the Town of Lakeview and the surrounding Urban Growth Boundary subject to such reasonable terms and conditions

as the Fire Chief, in his sole discretion, shall deem advisable for the protection of the residents of the Town of Lakeview and surrounding Urban Growth Boundary. The terms and conditions of the open burning permit shall be specifically and expressly set forth on the permit or otherwise communicated to the requesting party. The issuance of a permit imposes no liability on the Town of Lakeview for any damage caused by open burning and the sole risk thereof lies with the person obtaining the permit.

SECTION 5. ABATEMENT, ENFORCEMENT AND PENALTIES: Any violation of this ordinance or non-compliance with any of the provisions hereof shall be subject to legal proceedings to abate or enjoin such violation or non-compliance. In addition to abatement or injunctive proceedings, the following penalties may be imposed for violations or non-compliance:

(a) First offense violators of this ordinance shall receive a warning. The Town of Lakeview Air Quality Office shall notify the violator of their non-compliance by registered mail, which notice shall contain the penalty schedule.

(b) Second offense violators of this ordinance shall be punishable by a fine not to exceed \$25.00.

(c) Third offense violators of this ordinance shall be punishable by a fine not to exceed \$100.00.

(d) Subsequent violations shall be punishable by a maximum fine not to exceed \$250.00 per occurrence.


SECTION 6. SEVERABILITY: If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent


jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of Lake County and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect after its passage by the Commissioners of Lake County.

No commission member present requested that this ordinance be read in full so the same was read by title only and therefore passed unanimously by the Commissioners of Lake County and adopted on March 15, 1995.

Dated this 15 day of March, 1995.

  
Jeremiah O'Leary, Chairman

  
Jane O'Keefe, Commissioner

  
Robert M. Parque, Commissioner

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ORDINANCE NO. 6484

AN ORDINANCE amending Chapter 7 of the Code of Medford by adding new sections 7.220 through 7.228 pertaining to woodburning restrictions.

WHEREAS, the health, safety, and welfare of the citizens of Medford are adversely affected by the degradation of the air quality; and

WHEREAS, wood combustion for space heating produces particulate matter which is physically harmful, aesthetically unpleasant, and contributes to the degradation of the air quality; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. Chapter 7 of the Code of Medford is amended by adding new sections 7.220 through 7.228 pertaining to woodburning restrictions to read as follows:

"7.220 Definitions.

For purposes of Sections 7.220 through 7.228, the following definitions shall apply:

(1) "Alternative heat source" means a heat source other than a solid fuel burning device.

(2) "High pollution period" means a period of time commencing three hours after designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as DEQ). In the event that DEQ designates consecutive days as red or yellow, they shall all be considered a part of the same period.

(3) "Medford-Ashland Air Quality Maintenance Area" means that part of the County specifically identified by DEQ as an air quality maintenance area, that is one of several areas in the State wherein air quality has deteriorated due to unhealthful levels of pollutants in the air. A map and written description of the Medford-Ashland Air Quality Maintenance Area



(hereinafter referred to as AQMA) are included as Exhibits "A" and "B" respectively, following the text of this ordinance.

(4) "Oregon certified stove" means a woodstove certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules 340-21-115.

(5) "Red day" means a 24 hour period beginning at 7:00 a.m. when  $PM_{10}$  levels are forecast by the DEQ to be  $130 \mu g/m^3$  and above in the AQMA.

(6) "Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a private residence. No solid fuel burning devices shall be considered to be the sole source of heat if the private residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.

(7) "Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or Kachelofens.

(8) "Yellow day" means a 24 hour period beginning at 7:00 a.m. when the  $PM_{10}$  levels are forecast by the DEQ to be  $91 \mu g/m^3$  and above but less than  $130 \mu g/m^3$  in the AQMA.

#### 7.222 Operation of Solid Fuel Burning Device Prohibition.

(1) The operation of a solid fuel burning device during a high pollution period shall be prohibited unless an exemption has been granted pursuant to Section 7.224. A rebuttable presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney at any time during a high pollution period.

(2) After two years from the effective date of this Section, no property owner shall rent or lease a residential unit unless such unit is equipped with an alternative heat source complying with ORS 91.770. If the landlord violates this subsection (2), the tenant shall not be charged with any violation of subsection (1).

7.224 Exemptions.

It is permissible for a household to operate a solid fuel burning device during a high pollution period when the head of that household has previously obtained one of the following exemptions and possesses a certificate issued by the City granting the exemption. Exemptions granted under this section shall expire on September 1 of each year:

(1) **Economic Need:** An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Low-Income Energy Assistance Program (hereinafter referred to as L.E.A.P.), as administered by ACCESS, Inc. and as established by the United States Department of Energy.

(2) **Sole Source:** An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residence. Sole source exemptions shall not be issued after two years from the effective date of this Section unless the residence is approved for installation of an alternative heating source through the Jackson County Wood Smoke Abatement CLEAR program guidelines.

(3) **Oregon Certified Stoves:** An exemption may be issued to the heads of households for the operation of an Oregon Certified Stove in a residence on a day declared to be a yellow day by the DEQ. The operation of an Oregon certified stove shall be prohibited on a day declared to be a red day by the DEQ unless some other exemption applies and has been granted.

7.226 Abatement; Legal Proceedings.

Whoever violates or fails to comply with any of the provisions of this chapter shall be subject to appropriate legal proceedings to enjoin or abate such violation or noncompliance, in addition to the penalty provided in Section 7.300 below.

7.228 Administrative Regulations.

The City Manager shall prescribe administrative regulations governing the procedure for granting exemptions."

Section 2. This ordinance shall be effective on and after November 20, 1989.

PASSED by the Council and signed by me in open session in authentication of its passage this 2nd day of November, 1989.

ATTEST: Kathleen Ishiara James L. ...  
City Recorder Mayor

APPROVED: November 3, 1989 James L. ...  
Mayor

(CHAP7.ORD)

STATE OF OREGON }  
COUNTY OF JACKSON } ss.

I, Kathleen Ishiara, City Recorder of the City of Medford, do hereby certify that I have prepared the foregoing copy of Ord. No. 6484 have carefully compared the same with the original thereof on file in my office, and that it is correct, true and complete transcript therefrom and of the whole thereof.

Dated at Medford, Oregon, this 17th day of Nov., 1989.

Kathleen Ishiara  
City Recorder

# EXHIBIT A

## JACKSON COUNTY, OREGON

### MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

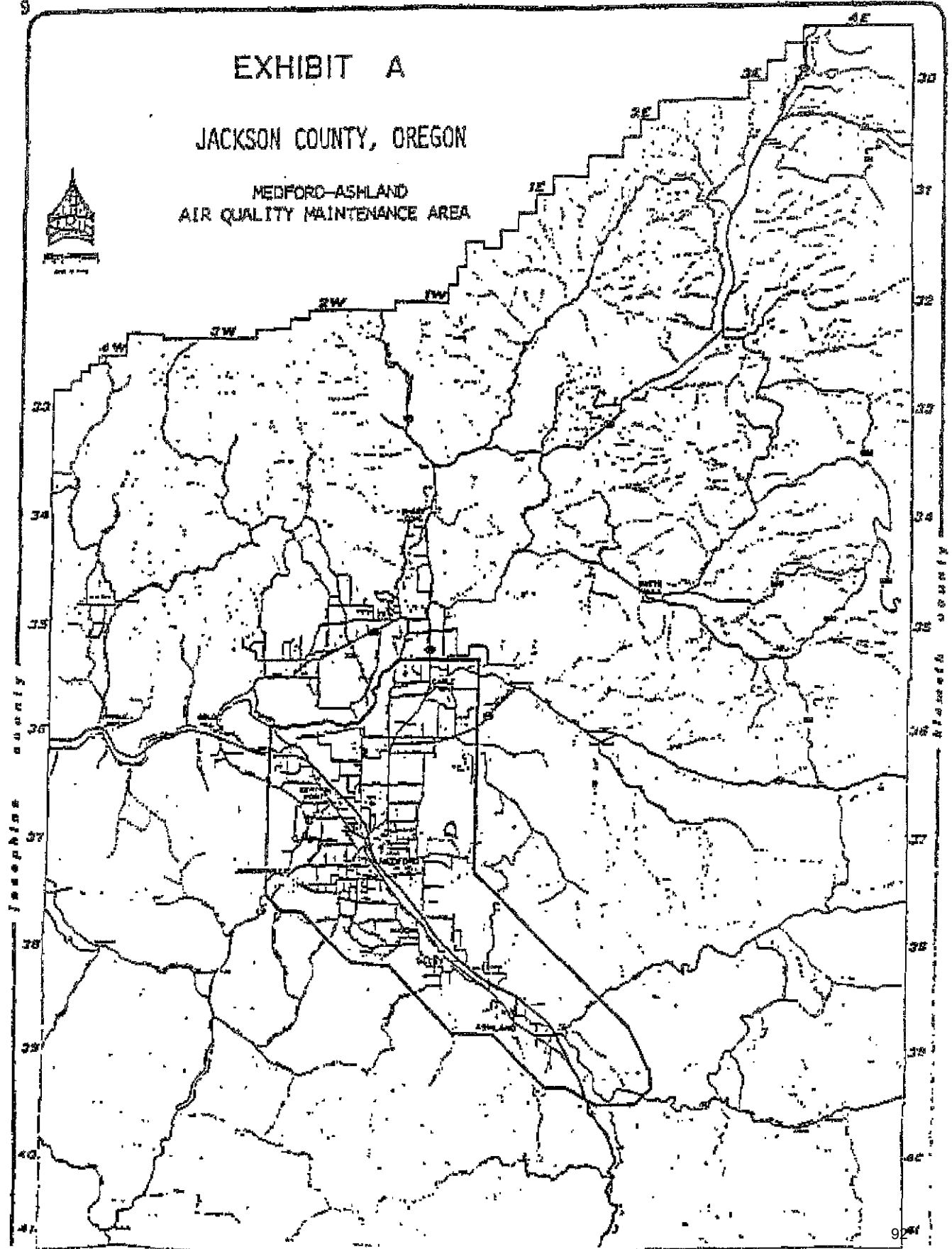


EXHIBIT B  
BOUNDARY DESCRIPTION

MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

The Medford-Ashland Air Quality Maintenance Area is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the SE corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence west to the SW corner of Section 31, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, R1E; thence NW along a line to the SE corner of Section 7, T39S, R1E; thence west to the SW corner of Section 12, T39S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.

DEC 12 1997  
OFFICE OF AIR  
QUALITY

BE IT REMEMBERED, that at a regular term of the Board of Commissioners of the State of Oregon, for the County of Union, sitting for the transaction of County business, and held at the Joseph Building Annex in the City of La Grande, in said County and State, on Wednesday of said month and the time fixed by law for holding a regular term of said Commission, when were present:

The Honorable STEVE MCCLURE, Chairman  
JOHN J. HOWARD Commissioner  
LORENCE SAVAGE Commissioner

WHEN, on WEDNESDAY, the 22ND day of April, 1992, among others the following proceedings were had to-wit:

IN THE MATTER OF AN ORDINANCE )  
AMENDING ORDINANCE 1991-6 )  
CONTROLLING AND MANAGING FIELD ) ORDINANCE  
BURNING IN UNION COUNTY, OREGON ) 1992-4  
AND CREATING A UNION COUNTY )  
SMOKE MANAGEMENT PROGRAM )  
AND DECLARING AN EMERGENCY )

WHEREAS, the Union County Board of Commissioners adopted Ordinance 1991-6 on June 5, 1991; and

WHEREAS, difficulties during the 1991 burning season have resulted in the need for amendments to the ordinance; and

WHEREAS, Union County is primarily an agricultural County in which numerous acres of wheat and grass seed crops are grown; and

WHEREAS, it is recognized that grass seed and cereal grain fields benefit from thermal sanitation (open burning) in order to eliminate certain diseases and pests; and

WHEREAS, if the practice of open field burning is to be allowed in Union County, it is necessary to establish an effective and enforceable smoke management program to control open field burning, in order to protect public health and safety and to avoid visibility degradation in the Eagle Cap Class I Wilderness Area.

NOW, THEREFORE, BE IT ORDAINED by the Union County Board of Commissioners as follows:

SECTION I. UNION COUNTY SMOKE MANAGEMENT PROGRAM.

The Union County Smoke Management Program is hereby created to administer the provisions of this act.

The smoke management season will run from July 15 through September 30 inclusive, for each year or dates set by the County Board of Commissioners.

Field burning occurring outside of the smoke management season must still comply with:

1. Section V parts B thru K.
2. Any penalties that apply from Section VI.
3. Per acre burn fees.

SECTION II. FIELD BURNING FEES.

A. All open field burning in Union County shall be subject to a burning fee for each acre burned. The amount of this fee shall be determined by the Union County Grass Seed Growers Association prior to the start of each field burning season. This fee shall be based on a budget projection of the estimated revenue necessary to cover the program operating expenses listed in part D of this section.

B. The burning fee applies only to the open burning of grass seed and cereal grain acreage. It does not apply to propane flaming on said acreage where straw residue has been removed prior to flaming, or where propane flaming is being used as a secondary or follow-up treatment to open burning.

C. All field burning fees collected shall be placed in a special fund to support the Union County Smoke Management Program.

D. The County Board of Commissioners will contract with the Union County Grass Seed Growers Association to use these funds to cover the following program operation expenses:

1. Meteorological monitoring equipment, which shall include a surface wind station and may include theodolite and pilot balloons.
2. Airplane flights for vertical temperature readings and burn sightings.
3. Office materials, which shall include maps, burn report forms, and burn fee receipts.
4. Contract personnel, which may include smoke management program manager, airplane pilot, and other personnel as necessary.
5. Radios for field communication with Smoke Management Center.

E. The contract will be submitted with a management plan that is subject to review and consultation of the county Commission.

SECTION III. FIELD BURNING PERMITS.

A. Fire permits must be obtained from the appropriate fire protection agency before any open field burning is conducted.

B. Each fire permit issued for open field burning in Union County shall include the following conditions:

1. Date of the permit and time of issuance.
2. Field(s) location and size.

3. Any fire safety requirements as specified by the State Fire Marshal's Rules, i.e. extinguishing capability, establishing fire guards, safe burning techniques, etc.
4. A 90-minute limit after permit issuance to commence the burning of the field. Before burning, permittee shall contact the Union County Smoke Management Center for final approval. Time set for final call in will be set in the smoke management plan.

SECTION IV. DAILY FIELD BURNING AUTHORIZATION CRITERIA.

A. Open field burning shall be allowed in Union County when the prevailing atmospheric dispersion and burning conditions are favorable for optimum smoke dispersal. Determination "made at the smoke management center," of optimum smoke dispersal conditions may be made based on the following factors:

1. Morning weather forecast and discussion with the National Weather Service office in Pendleton, indicating anticipated weather conditions for Union County, such as afternoon surface and upper-level wind direction and speed, high temperature, and lowest relative humidity.
2. Temperature sounding from local aircraft taken in the morning.
3. Calculated maximum mixing height for each day, based on temperature sounding.
4. Upper-level transport wind direction and speed as determined by pilot balloon readings taken at the smoke management center at Imbler.
5. Surface level winds, based on wind monitoring equipment located at the smoke management center at Imbler, and the La Grande/Union County Airport or other locations in Union County.
6. Observations of visibility and potential smoke impacts from the Point Prominence Lookout station.

B. Once the determination has been made that favorable conditions exist for burning, a test fire will be conducted to verify that such conditions exist.

SECTION V. GENERAL REQUIREMENTS.

A. Open field burning is prohibited under poor smoke dispersal conditions, or when the mixing height is 1500 feet or lower as measured from ground elevation at Imbler. A test fire may be used to determine the actual mixing height, or a calculated mixing height may be used.

B. No open field burning, including test fires, shall be allowed when prevailing winds indicate smoke transport directly toward the following areas:

1. The La Grande PM 10 Non-attainment Area.
2. The Eagle Cap Class I Wilderness Area.

C. All open field burning shall be conducted in a manner which minimizes smoke impact on the public and promotes safe burning practices.



D. No open field burning shall be allowed if the State Fire Marshal or designated agent has prohibited burning based on fire safety considerations, i.e. high fire danger conditions.

E. Open field burning shall be prohibited on Sundays and holidays. Open field burning shall be prohibited on Saturdays except following extreme periods of wet weather or special circumstances.

F. No open field burning shall be allowed during air stagnation periods designated by the National Weather Service or during likely periods of noncompliance with National Ambient Air Quality Standards.

G. Propane flaming on grass seed and cereal grain acreage is allowed only when the loose straw has been removed from the field, or if the field has been recently open burned. Propaning is allowed on all days except Sundays and holidays.

H. Rapid ignition techniques are encouraged on all acreage where there are no imminent fire hazards or public safety concerns.

I. Test fires may only be used after meteorological and atmospheric conditions have been carefully analyzed.

J. This ordinance does not relieve permittee from responsibility for fire damage.

K. Any field not authorized for burning that is accidentally ignited must be extinguished immediately and reported to the smoke management center.

L. On or before December 1 of each year, the following information shall be assembled and reported to the Department of Environmental Quality:

1. Daily acreage burned.
2. Daily meteorology on each burn day.
3. Daily smoke impacts in La Grande and the Eagle Cap Wilderness Area (extent, duration, and severity of smoke impact).
4. Daily public complaints (location and observation of complainant).
5. Total amount of fees collected for the year.
6. A summary of any enforcement action taken during the season.

#### SECTION VI. SMOKE MANAGEMENT PROGRAM FINES AND PENALTIES.

A. The Union County Smoke Management Program shall provide Union County with adequate funding to hire a seasonal field inspector. The field inspector will have the responsibility of providing observations of field burning activity to the smoke management center, extent, duration and severity of smoke impacts, and investigating any potential violations of the provisions of this Ordinance, for which the field inspector shall notify the Union County Sheriff's office of violations of this ordinance.

The following violations of this Ordinance shall be subject to the following fines and penalties:

1. \$500 for burning without first obtaining a burning permit.
2. \$250 for open burning more acres than authorized.
3. \$100 for burning acreage for which a burning fee was not paid.
4. Not less than \$50 nor more than \$1000 for any other violation pertaining to this Ordinance.
5. An automatic doubling of each fine for any reoccurring violation of the Ordinance per season.

Violators shall be cited into the Union County District Court. The fines and penalties shall not be in lieu of the field burning fees as assessed in Section II. Said assessment in Section II shall be levied and enforced by and through the Union County Board of Commissioners, and shall be in addition to whatever fines and penalties are imposed pursuant to this Ordinance.

SECTION VII. EMERGENCY ADOPTION

Whereas an emergency exists in order to have guidelines in place before the 1992 burning season, this Ordinance shall become effective July 1, 1992.

Passed by the Union County Board of Commissioners this 6<sup>th</sup> day of May, 1992.

*Steve McClure*  
 \_\_\_\_\_  
 STEVE MCCLURE, CHAIRMAN

*John Howard*  
 \_\_\_\_\_  
 JOHN HOWARD, COMMISSIONER

*Loren D. Savage*  
 \_\_\_\_\_  
 LORENCE D. SAVAGE, COMMISSIONER



**RECEIVED**  
MAY 29 1990

THE COUNTY OF JEFFERSON ORDAINS AS FOLLOWS:

**AIR QUALITY CONTROL**

ORDINANCE NO. 0-58-89

AN ORDINANCE CONTROLLING AND MANAGING FIELD BURNING IN JEFFERSON COUNTY, OREGON, AND CREATING A JEFFERSON COUNTY SMOKE MANAGEMENT PROGRAM.

WHEREAS, Jefferson County is primarily an agricultural county in which numerous acres of wheat and grass seed crops are grown; and

WHEREAS, it is necessary for the farmers of Jefferson County to burn their fields to protect the fields from diseases and pests; and

WHEREAS, it is necessary to the economy of Jefferson County to have field burning, but also to control the field burning to protect the health and safety of the inhabitants of Jefferson County.

NOW, THEREFORE, BE IT ORDAINED by the Jefferson County Court as follows:

**SECTION I. JEFFERSON COUNTY SMOKE MANAGEMENT PROGRAM.**

The Jefferson County Smoke Management Program is hereby created to administer the provisions of this act.

**SECTION II. FIELD BURNING DAY DECISION.**

Field burning shall be allowed upon the following atmospheric tests which shall be made:

1. Temperature aloft readings taken at intervals up to 6,000 to 8,000 feet by airplane over the Madras airport reservation.
2. Pilot balloon readings taken in the Madras airport area if said pilot balloon is available.
3. Temperature and wind readings relayed to the National Weather Service or another weather service designated by Jefferson County for interpretation and incorporation into an area smoke dispersal forecast for Jefferson County.

The decision must also comply with the Jefferson County Rural Fire Protection Ordinances if applicable, or any other applicable fire protection agency.

The decision to allow or disallow field burning will be made by Jefferson County Court's official representative. The Jefferson County Court shall appoint an official representative for an annual term to be reviewed prior to each burning season.

**SECTION III. FIELD BURNING FEES.**

A. All agricultural burning shall be done on a required permit basis. Jefferson County Smoke Management Program burning permit fees for all except grain and grass stubble shall be as follows:

1. Less than one (1) acre - no fee.
2. 1 to less than 40 acres - \$10.00.
3. 40 or more acres - \$20.00.

The field burning fee on grain and grass stubble is \$2.00 per acre. This fee is set and assessed annually by the Jefferson County Court and is a charge for the primary ignition of the stubble only. Any follow-up flaming of the field is not charged.

B. Any other burning permits required by law must also be obtained from the appropriate fire protection agency.

C. Fees generated by the Jefferson County Smoke Management Program will be placed in a special fund. Revenues generated by this program will include funds for program operating expenses which will fund the following items:

1. Office materials, i.e. maps, burn report forms, burn log.
2. Pilot balloon equipment.
3. Office secretary.
4. Airplane flights for temperature readings and/or burn sightings.
5. Sheriff's patrol assistance on highway burns.
6. Contracted patrol person to observe and log field burning in progress and to log weather data during the day.

The funds remaining from the fees received will be spent on public relations, public education, research and development of field burning alternatives in the Central Oregon area, or other Smoke Management Program expenses not listed in Section III C. 1-6.

#### SECTION IV. FIELD BURNING REGISTRATION.

Fields qualifying to be burned under this program will be pre-registered with the Smoke Management Program between July 1 and July 20, inclusive, during regular business hours at the location designated by the County Court. Payment of field burning fees shall be made at the time of registration. Fields burned prior to July 1 must be registered and the annual fee remitted prior to burning. Field sizes and location shall be given at the time registered. Acres not registered at the pre-registration time must be registered before burning at a fee of ten percent (10%) above the annual rate. Fees for acres registered by the grower but not burned will be refunded upon verification of the field stubble being turned under or the year's end, whichever comes first.

#### SECTION V. SMOKE MANAGEMENT PROGRAM SEASON.

The smoke management season will run from July 25 through September 20, inclusive, for each year. Grass and grain stubble burned outside of this time span are still subject to the burn fees of this program and must comply with the provisions of this Ordinance.

#### SECTION VI. SMOKE MANAGEMENT PROGRAM REGULATIONS.

Fields may be burned on the following days:

1. Monday through Friday, except holidays and no-burn days. Secondary burning such as propaning will also be allowed on these days except

holidays and no-burn days.

2. On Saturdays, secondary burning such as propaning will be allowed except on holidays and no-burn days.
3. No burning is allowed on Sunday.
4. Propane flaming of crops other than grass and grain stubble are allowed on any day except Sundays and holidays.

Permits to open burn or propane must be validated on the day the field is to be burned and before the field is burned, in the following manner:

1. Permits must be validated through the Jefferson County Smoke Management Program as designated herein.
2. When the permit is validated the field location and size will be given.
3. When permits are validated in the morning and the fire will not be out by 2:00 p.m., then that permit must be revalidated before that field is lit.

The burn completion time for all fires is as follows:

1. All open burn fires all days will be completely out by 5:00 p.m. and propaning fires will be completely out by 6:30 p.m. with no exceptions. If there is a problem extinguishing the fire by 5:00 p.m., then the appropriate fire department must be called and advised of such or they must be called to assist in extinguishing the fire at the grower's expense.
2. On marginal burn days (those days when the smoke dispersal forecast is typed as fair) the time that all fires are to be out will be given at the time the permit is validated.
3. On marginal burn days, acreage limitations may be given to give more growers a chance to burn.

To control, reduce and prevent air pollution from open field burning and propaning, it is the policy of the Smoke Management Program that:

1. Rapid ignition techniques will be encouraged on all acreage where there are no imminent fire hazards or public safety concerns.
2. No person shall open field burn or propane if it is likely that the resulting smoke would create an uncontrollable hazard that would affect a city, airport or highway.
3. No person shall vacate a burn until it is effectively extinguished. All flames and major smoke sources shall be put out.

Regulated fields that are accidentally lit by a nearby authorized or unauthorized fire must be reported and extinguished immediately, since they come under the same regulations as all other regulated fields.

**SECTION VII. SMOKE MANAGEMENT REGULATIONS FOR MINT SLUG BURNING.**

Permission to burn mint slugs will be authorized at the discretion of the Jefferson County Court official representative.

The following guidelines are set for the burning of mint slugs:

1. Mint slugs may not be stacked or mechanically pushed together.
2. Mint slugs must be placed on an area with adequate drainage.
3. Mint slugs may be burned only when the prevailing ground winds are moving toward a sparsely populated area.

**SECTION VIII. SMOKE MANAGEMENT PROGRAM FINES AND PENALTIES.**

All violations under this Ordinance are declared a nuisance and subject to the following fines and penalties:

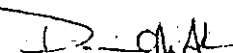
\$500.00 for a non-continuing offense and \$1,000.00 for a continuing offense as allowed in ORS 203.065.

Violators shall be cited into Jefferson County District Court. The fines and penalties shall not be in lieu of the field burning fees as assessed in Section III. Said assessment in Section III shall be levied and enforced by and through the Jefferson County Court, and shall be in addition to whatever fines and penalties are imposed pursuant to this Ordinance.

**SECTION IX. EMERGENCY CLAUSE.**

The control and regulation of field burning is essential to the health and safety of the residents of Jefferson County, Oregon and therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon its passage by the County Court.


Passed by the County Court this 31st day of May, 1989.

  
\_\_\_\_\_  
DANIEL J. AHERN  
County Judge

  
\_\_\_\_\_  
CHARLES G. SHOWN  
County Commissioner

  
\_\_\_\_\_  
RICHARD L. ALLEN  
County Commissioner

ATTEST:

  
\_\_\_\_\_  
ELAINE L. HENDERSON  
County Clerk

Ayes: 3

Nays: 0

CODIFIED ORDINANCES OF JACKSON COUNTY

PART EIGHTEEN - HEALTH AND SANITATION CODE

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CHAPTER 1810

Air Pollution

- 1810.01 Definitions.
  - 1810.02 Exceptions to chapter.
  - 1810.03 Requirements for solid fuel heating device installation.
  - 1810.04 Solid fuel burning device omission standard.
  - 1810.05 Restriction of woodburning and emissions on high pollution days.
  - 1810.06 Trackout.
  - 1810.07 Open burning.
  - 1810.08 Burning of material emitting dense smoke or noxious odors in solid fuel burning devices.
  - 1810.09 Abatement; legal proceedings.
  - 1810.99 Penalty.
- Exhibits A-D

CROSS REFERENCES

- Quality control programs - see ORS 468A.010
  - Application of statutes - see ORS 468A.020
  - Contamination rules and standards; variances - see ORS 468A.075
  - Air quality control authorities - see ORS 468A.115
  - State aid - see ORS 468A.175
  - Authority to limit motor vehicle operation and traffic - see ORS 468A.405
  - Fires in parks - see S.U. & P.S. 1064.10
  - Fires in County Fairgrounds and Exposition Park - see S.U. & P.S. 1066.14
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**1810.01 DEFINITIONS.**

As used in this chapter:

- (a) "Agricultural operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit by raising, harvesting and selling crops or by raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose.



- (b) "Agricultural waste" means any material actually generated or used by an agricultural operation, but excluding those materials described in Section 1810.07(d).
- (c) "Board" means the Board of County Commissioners.
- (d) "Critical PM<sub>10</sub> Control Area" means that part of the County specifically identified by the Board as the Critical PM<sub>10</sub> Control Area. A map and written description of the Critical PM<sub>10</sub> Control Area are included as Exhibits "A" and "B", respectively, following the text of this chapter.
- (e) "High pollution period" means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as DEQ) or the Jackson County Department of Health and Human Services. In the event that more than one consecutive day is designated as red or yellow, it shall all be considered part of the same period.
- (f) "Medford-Ashland Air Quality Maintenance Area" (hereinafter referred to as AQMA) means that part of the County specifically identified by the Oregon Department of Environmental Quality as an air quality maintenance area, that is one of several areas in the State wherein air quality has deteriorated due to unhealthful levels of pollutants in the air. A map and written description of the AQMA are included as Exhibits "C" and "D", respectively, following the text of this chapter.
- (g) "Opacity" means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.
- (h) "Open burning" means burning in burn barrels or incinerators, open outdoor fires and any other burning where combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.
- (i) "Oregon certified stove" means a solid fuel burning device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules 340-21-115.
- (j) "PM<sub>10</sub>" means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.
- (k) "Red day" means a twenty-four hour period, beginning at 7:00 a.m., when PM<sub>10</sub> levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be 130 ug/m<sup>3</sup> and above.
- (l) "Residence" means a building containing one or more dwelling units used for habitation by one or more persons.

(m) "Residential woodburning" means utilization of wood in a solid fuel heating device inside a residence.

(n) "Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed, furnace or heating system utilizing oil, natural gas, electricity or propane.

(o) "Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves or Kachelofens.

(p) "Space heating" means raising the interior temperature of a room.

(q) "Trackout" means the deposit of mud, dirt and other debris on paved public roadways by motor vehicles. "Trackout" also means the material being so tracked onto public roadway. Trackout can become pulverized and blown into the air by vehicular traffic where it becomes a part of the total suspended particulate level.

(r) "Ventilation index" means the National Weather Service's indicator of the relative degree of air circulation for a specified area and time period.

(s) "Waste" means discarded or excess material, including:

(1) Agricultural waste resulting from farming or agricultural practices and operations; and

(2) Nonagricultural waste resulting from practices and operations, other than farm operations, including industrial, commercial, construction, demolition and domestic wastes and yard debris.

(t) "Yellow day" means a twenty-four hour period, beginning at 7:00 a.m., when the  $PM_{10}$  levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be  $91 \mu\text{g}/\text{m}^3$  and above but less than  $130 \mu\text{g}/\text{m}^3$ .

(Ord. 85-31. Passed 12-4-85; E. Ord 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 90-4. Passed 5-2-90.) \*

**1810.02 EXCEPTIONS TO CHAPTER.**

This chapter shall not apply:

- (a) Within incorporated limits of any city;
- (b) To Federal or State lands;
- (c) To prescribed slash burns regulated by the State Smoke Management Plan;
- (d) To open cooking fires or ceremonial fires; or
- (e) To orchard heating devices in which combustion air is effectively controlled and combustion products are effectively vented through a stack or chimney, provided that no materials which may emit dense smoke or noxious odors are burned; or
- (f) To fires set by a public agency for instruction of employees in the methods of firefighting.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 2001-17. Passed 8-22-01.) \*

**1810.03 REQUIREMENTS FOR SOLID FUEL HEATING DEVICE INSTALLATION.**

The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

(a) It shall be unlawful for any new or used solid fuel heating device to be installed in the Medford-Ashland Air Quality Maintenance Area after the effective date of this chapter (December 22, 1989), unless:

- (1) The device is installed pursuant to the County Building Code and regulations of the Department of Planning and Development;
- (2) The solid fuel heating device complies with the Oregon Department of Environmental Quality 1988 Particulate Emission standards for certified woodstoves; and
- (3) For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel heating device.

(b) If the conditions set forth in subsection (a) hereof are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89.) \*

#### 1810.04 SOLID FUEL BURNING DEVICE EMISSION STANDARD.

(a) Within the Critical PM<sub>10</sub> Control Area, no person owning or operating a solid fuel burning device shall at any time cause, allow or discharge emissions from such device which are of an opacity greater than fifty percent.

(b) The provisions of this section shall not apply to emissions during the starting or refueling of a new fire for a period not to exceed thirty minutes in any four-hour period.

(c) For the purposes of this section, opacity percentages shall be determined by a certified observer, using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County Department of Health and Human Services that is known to produce equivalent or better accuracy.

(Ord. 90-4. Passed 5-2-90.) \*

#### 1810.05 RESTRICTION OF WOODBURNING AND EMISSIONS ON HIGH POLLUTION DAYS.

##### (a) Operation of Solid Fuel Burning Device Prohibition.

(1) The operation of a solid fuel burning device within the Critical PM<sub>10</sub> Control Area during a high pollution period shall be prohibited, unless an exemption has been granted pursuant to Section 1810.05(b). A presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of the high pollution period.

(2) Notwithstanding paragraph (a)(1) hereof, the operation of an Oregon Certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed thirty minutes in any four-hour period.

(3) After two years from the effective date of this chapter, no property owner within the Critical PM<sub>10</sub> Control Area shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device, unless the landlord has a valid exemption under Section 1810.05(b)(2). Should a violation of this section occur, it shall be attributable to the property owner and not to the tenant or lessee.

(b) Exemptions. It is permissible for a household to operate a solid fuel burning device within the Critical PM<sub>10</sub> Control Area during a high pollution period when the head of that household has obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1 of each year.

(1) Economic need. An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Federal Department of Energy Low-income Energy Assistance Program (hereinafter referred to as L.I.E.A.P.), as administered by ACCESS, Inc. or its successor.

(2) Sole source. An exemption may be issued to the heads of households who sign a statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residences. Sole source exemptions shall not be issued after two years from the effective date of this chapter, unless the residence is approved for installation of an alternative heating source through the Jackson County Wood Smoke Abatement CLEAR program guidelines, or, in the absence of the CLEAR program, when the head of the household can show that the family income is less than eighty percent of the median income level for the Medford metropolitan area, as established by the Federal Department of Housing and Urban Development (HUD). Households that qualify for an exemption based on economic need, as defined in this chapter, may continue to rely on a solid fuel burning device as the sole source of heat for the residence beyond two years from the effective date of this chapter.

(3) Special needs. Upon a showing of special need, as further defined by administrative rule, a temporary exemption may be granted authorizing the burning of a solid fuel burning device, notwithstanding Section 1810.05(a)(1) and (2). "Special need" shall include, but not be limited to, occasions when a furnace or central heating system is inoperable, other than through the owner or operator's own actions or neglect.

(c) Administrative Rules. The County Administrator shall develop administrative rules setting out the requirements necessary to qualify for the exemptions described herein and specifying the manner in which this chapter will be enforced.

(Ord. 85-31. Passed 12-4-85; Ord. 90-4. Passed 5-2-90.) \*

**1810.06 TRACKOUT.**

(a) The purpose of this section is to lessen the amount of particulate pollution which originates from roads and roadways. Dirt and other debris which may become deposited upon paved roads can be ground and pulverized by traffic into minute particles. These particles can then become airborne, adding to the particulate pollution problem.

(b) This section applies to construction sites, agricultural activities and commercial and industrial operations.

(c) No person shall trackout mud, dirt or other debris from private or public lands onto paved public roads without taking reasonable precautions to prevent such particulate matter from becoming airborne. These precautions shall include, where appropriate, the prompt removal of such material from the paved road surface. This section does not apply to noncommercial uses of public roads.

(d) No person shall violate the provisions of a stop-work order issued pursuant to subsection (e) hereof.

(e) The County may require the imposition of building permit conditions for the prevention of trackout. Conditions imposed may include, but are not limited to, the following:

- (1) Posting of a bond by a contractor in an amount sufficient to ensure that funds are available for roadway cleanup by the County; if the contractor is negligent in the cleanup of an adjacent public roadway;
- (2) Street sweeping, vacuuming or other means of removing trackout material from public roadways;
- (3) The installation of wheel washers at exits of major construction sites;
- (4) The use of temporary or permanent barricades to keep traffic off unpaved areas;
- (5) Graveling of access roads on site;
- (6) Limiting the use of public roadways by vehicles; and
- (7) The issuance of a stop-work order.

(f) A stop-work order issued pursuant to subsection (e) hereof shall be posted at the work site and delivered by certified mail to an alleged violator. Appeals from any such order shall be

conducted pursuant to the provisions of Section 204 of the County Building Code, as amended in Section 1420.02 of these Codified Ordinances.

(Ord. 85-31. Passed 12-4-85.) \*

#### 1810.07 OPEN BURNING.

(a) The purpose of this section is to minimize the accumulation of  $PM_{10}$  air pollution resulting from open burning. The public should be aware that open burning may also be restricted during the fire season (typically June through October) by the fire districts or other fire regulating authorities. These authorities base their restrictions of open burning on such factors as low humidity, high winds, drought or other conditions which make outside burning unsafe.

(b) Open burning of any kind is prohibited throughout unincorporated Jackson County on all days of the year when the maximum ventilation index is below 400.

(c) Open burning of any kind is prohibited within the Medford-Ashland Air Quality Maintenance Area during November, December, January and February of each year due to generally poor smoke dispersion.

(d) Open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains or animal or vegetable matter resulting from the handling, preparation, cooking or service of food or of any other material which normally emits dense smoke or noxious odors is prohibited throughout the unincorporated areas of Jackson County.

(e) The provisions of this section do not apply to the open burning of agricultural wastes which is necessary for disease or pest control.

(f) The provisions of this section do not apply to fires set by a public agency for instruction of employees in the methods of firefighting.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 2001-17. Passed 8-22-01.) \*

#### 1810.08 BURNING OF MATERIAL EMITTING DENSE SMOKE OR NOXIOUS ODORS IN SOLID FUEL BURNING DEVICES.

The burning of any of the materials listed in Section 1810.07(d) in a solid fuel burning device is prohibited throughout the unincorporated areas of Jackson County at all times.

(E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89.) \*

~~1810.09 ABATEMENT; LEGAL PROCEEDINGS.~~

Whoever violates or fails to comply with any of the provisions of this chapter shall be subject to appropriate legal proceedings to enjoin or abate such violation or noncompliance, in addition to the penalty provided in Section 1810.99.

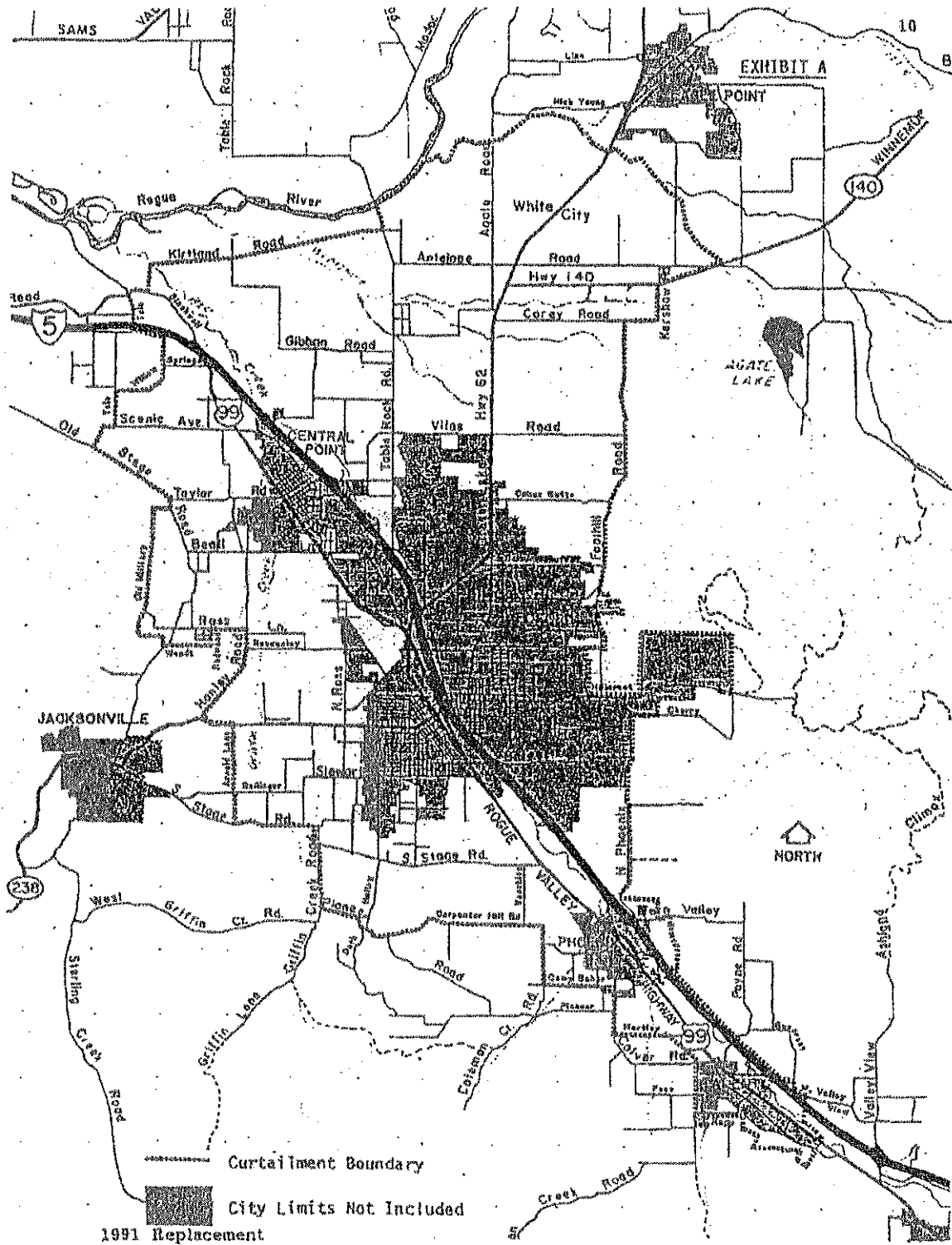
(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89.)\*

~~1810.99 PENALTY.~~

EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)







## EXHIBIT B

## PROPOSED CURTAILMENT BOUNDARY JACKSON COUNTY

Beginning on I-5 and Tolo Road, crossover north on Tolo Road to Old Hwy 99. East on Old Hwy 99 to Kirtland Road. Northeasterly on Kirtland Road to Tablerock Road. North on Tablerock Road to the Rogue River. Northeasterly along the southern bank of the Rogue River to the mouth of Little Butte Creek. Northeasterly along Little Butte Creek to Antelope Creek. Southeasterly along Antelope Creek to Dry Creek. Southeasterly on Dry Creek to Hwy 140. Southwesterly on Hwy 140 to Kershaw Road. South on Kershaw Road to Corey Road. West on Corey Road to Foothill Road. South on Foothill Road to Medford Urban Growth Boundary (UGB) (near Delta Waters Road). Follow eastern UGB south to North Phoenix Road. South on North Phoenix Road to Phoenix UGB. Follow eastern UGB south to I-5. Southeasterly on I-5 to Talent UGB. Follow the eastern, southern and western UGB until intersection with Southern Pacific Railroad track. Southern Pacific Railroad track north to Hartley Lane. West on Hartley Lane to Talent-Phoenix Road. North on Talent-Phoenix Road to Phoenix UGB. West along southern boundary of Phoenix UGB to Camp Baker Road. West on Camp Baker Road to Coleman Creek Road. North on Coleman Creek Road to Carpenter Hill Road. West on Carpenter Hill Road to Pioneer Road. Northwest on Pioneer Road to Griffin Creek Road. North on Griffin Creek Road to Medford UGB. North along Medford UGB to South Stage Road. West on South Stage Road to Arnold Lane. North on Arnold Lane to Jacksonville Hwy. West on Jacksonville Hwy to Hanley Road. Northeast on Hanley Road to Ross Lane. West on Ross Lane to Redwood Drive. South on Redwood Drive to LaPine Avenue. West on LaPine Avenue to Old Stage Road. North on Old Stage Road to Old Military Road. North on Old Military Road to Old Stage Road. Northwest on Old Stage Road to Scenic Avenue. Northwest on Scenic Avenue to Tolo Road. North on Tolo Road to Willow Springs Road. East on Willow Springs Road to Ventura Lane. North on Ventura Lane to I-5. Northwest on I-5 to crossover of Tolo Road.

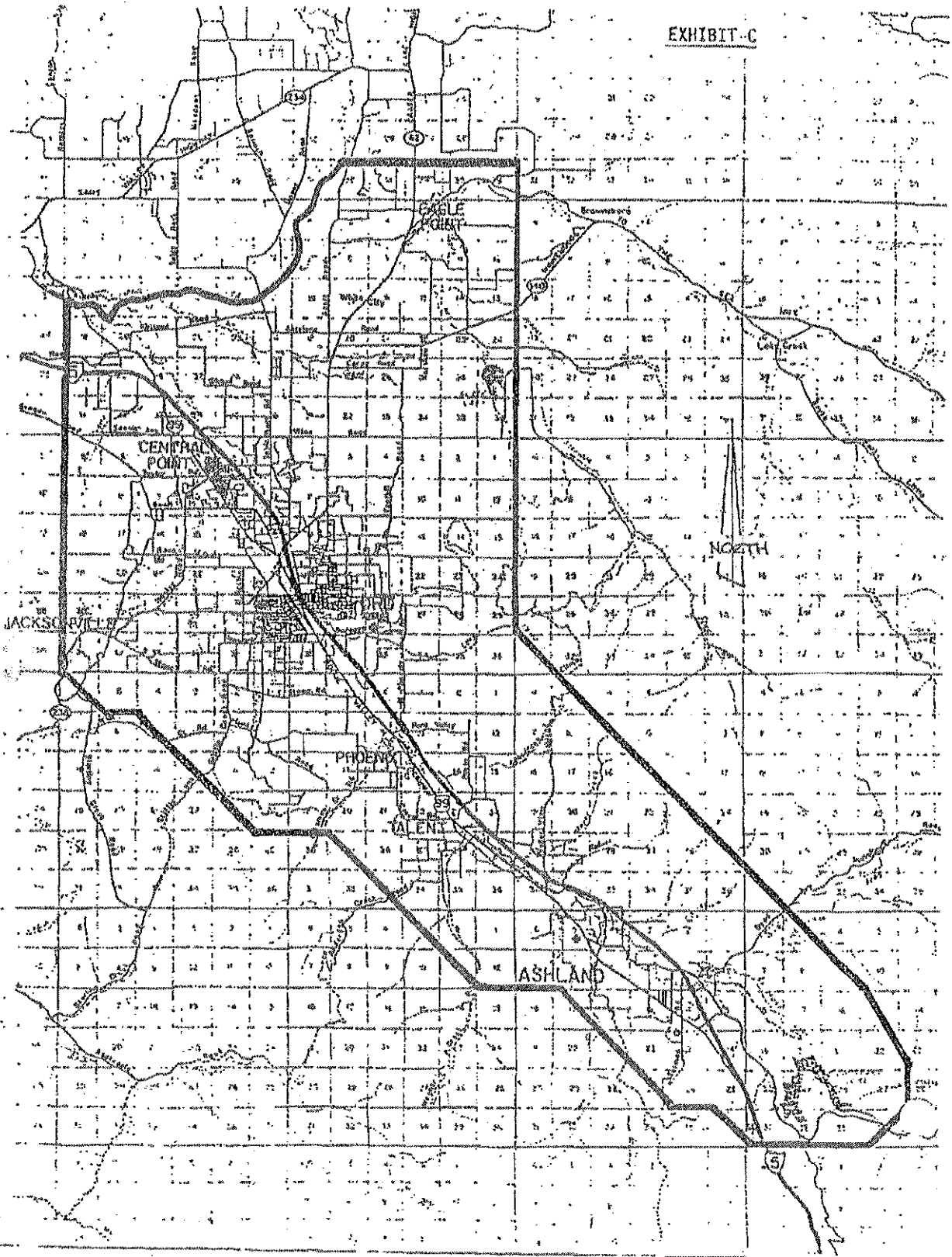


EXHIBIT D  
BOUNDARY DESCRIPTION  
MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

The Medford-Ashland Air Quality Maintenance Area is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the SE corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence west to the SW corner of Section 31, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, R1E; thence NW along a line to the SE corner of Section 7, T39S, R1E; thence west to the SW corner of Section 12, T39S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.

## 5.550 Outside Burning

(1) No person shall start or maintain any fire outside a building (except for an outdoor cooking fire and agricultural heating devices) for the purpose of burning any combustible material, or cause or participate therein, nor shall any person in control of any premises cause or knowingly allow any such fire to be started or maintained on any part of said premises unless:

(a) A written permit has been issued by the city Fire Chief or his agent to maintain such fire at that location; and

(b) The fire is started and maintained in accordance with the terms of the permit and the following requirements of this section.

No outside burning whatsoever shall be permitted during December and January, except for an outdoor cooking fire and agricultural heating devices.

(2) No permit will be issued where burning would violate Oregon Administrative Rules governing open burning in the Rogue Basin Open Burning Control Area.

(3) Each permit shall contain a written condition in bold-face type to the effect that the permittee shall contact the Fire Chief's office before each fire is started and ascertain that outside burning is approved, under subsections (4) and (5), by the Fire Chief for that day. No permit shall be valid as to any day on which the Fire Chief has ascertained that burning is not permitted under said subsections. In addition, the Fire Chief may condition any permit issued hereunder to exclude the burning of any particular material when he finds that the burning of such material would be unduly obnoxious in the locality of the proposed burning site.

(4) The Fire Chief or his agent shall not approve outside burning on any day if he determines that low humidity, high winds, drought, or other weather or other unusual conditions exist which make outside burning generally, or at the particular time and place proposed, unreasonably hazardous to the safety of persons or property. In no event shall the Fire Chief approve outside burning on a day when one or more of the following conditions exist, or in his determination will exist:

(a) Temperatures above 90E Fahrenheit;

(b) Wind above 20 miles per hour; or

(c) Humidity below 30 percent.

(5) The Fire Chief or his agent may approve outside burning on any day when he determines that the ventilation index is or will be greater than 400 during that day. The ventilation index is the National Weather Service's indicator of the relative degree of air circulation for the Medford area.

(6) Fires which are subject to this section shall be maintained during daylight hours and by a competent adult person and shall be extinguished prior to darkness unless continued burning is specifically authorized in writing by the Fire Chief.

(7) A permit may be issued only for the following purposes:

(a) controlling agricultural diseases such as blight that must be quickly destroyed by fire to prevent the spread of the disease;

(b) burning contaminated pesticide containers as prescribed by D.E.Q. and manufacturer specifications;

(c) burning bee hives and beekeeping paraphernalia to eradicate the spread of disease;

(d) burning a structure or the other use of fire for training purposes by a fire department in coordination with D.E.Q., or

(e) field burning in agricultural areas.

(8) Violation of this section constitutes a violation.

(9) Outside burning without a permit is hereby declared to be a public nuisance and may be summarily abated by the Fire Chief or Chief of Police.

[Amd. Ord No. 4732, Oct 21, 1982; Amd. Ord. No. 6403, July 6, 1989; Amd. Ord. No. 6430, Aug 17, 1989; Amd. Ord No. 2000-45, March 16, 2000.]

# MEDFORD: WOOD STOVES

## 7.220 Definitions

For purposes of Sections 7.220 through 7.242, the following definitions shall apply:

- (1) "Alternative heat source" means a heat source other than a solid fuel burning device.
  - (2) "High pollution period" means a period of time commencing three hours after initial designation as a red or yellow day by the DEQ or Jackson County Department of Health and Human Services. In the event that the DEQ or Jackson County Department of Health and Human Services designates consecutive days as red or yellow, they shall all be considered a part of the same period.
  - (3) "Medford-Ashland Air Quality Maintenance Area" means that part of the County specifically identified by DEQ as an air quality maintenance area, that is one of several areas in the State wherein air quality has deteriorated due to unhealthful levels of pollutants in the air. A map and written description of the Medford-Ashland Air Quality Maintenance Area (hereinafter referred to as AQMA) are included as Exhibits "A" and "B" respectively, following the text of this ordinance.
  - (4) AOpacity@ means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.
  - (5) "Oregon certified stove" means a solid fuel burning device certified by DEQ or EPA as meeting the emission performance standards specified in Oregon Administrative Rules 340-34-045 through 340-34-115.
  - (6) APM10" means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.
  - (7) "Red day" means a 24 hour period beginning at 7:00 a.m. when PM10 levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be 130 ug/m3 and above.
  - (8) AResidence@ means a building containing one or more dwelling units used for habitation by one or more persons.
  - (9) AResidential woodburning@ means utilization of wood in a solid fuel heating device inside a new residence.
  - (10) "Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.
  - (11) "Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, fireplace inserts, or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or Kachelofens.
  - (12) ASpace heating@ means raising the interior temperature of a room.
  - (13) "Yellow day" means a 24 hour period beginning at 7:00 a.m. when the PM10 levels are forecast by the DEQ or Jackson County Department of Health and Human Services to be 91 ug/m3 and above but less than 130 ug/m3.
- [Amd. Sec. 1, Ord. No. 6992, October 3, 1991; Amd. Sec. 1, Ord. No. 1998-203, Sept. 17, 1998.]

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## 7.222 Operation of Solid Fuel Burning Device Prohibition

(1) The operation of a solid fuel burning device within the City of Medford during a high pollution period shall be prohibited unless an exemption has been granted pursuant to Section 7.224. A rebuttable presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of the high pollution period. Any resident of the premises who is over the age of eighteen years shall be presumed to be the violator unless rebutted by contrary evidence.

(2) Notwithstanding subsection (1) of this section, the operation of an Oregon Certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed 30 minutes in any four-hour period.

(3) No property owner within the City of Medford shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device, unless the landlord has a valid exemption under Section 7.224. Should a violation of this section occur it shall be attributable to the property owner and not to the tenant or lessee.

(4) No person owning or operating a solid fuel burning device shall at any time cause, allow, or discharge emissions from such device which are of an opacity greater than fifty percent (50%). The provisions of this subsection shall not apply to emissions during the starting or refueling of a new fire for a period not to exceed 30 minutes in any four-hour period. For the purposes of this section opacity percentages shall be determined by a certified observer using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County Department of Health and Human Services that is known to produce equivalent or better accuracy.

(5) It shall be unlawful for any new or used solid fuel heating device to be installed in the City of Medford after the effective date of this section of the Code unless the device is installed pursuant to the City of Medford regulations; the solid fuel heating device complies with the Oregon Department of Environmental Quality Particulate Emission standards for certified woodstoves; and for all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar, or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel heating device. If the conditions set forth in this subsection are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for the installation of the device.

[Amd. Sec. 2, Ord. No. 6992, October 3, 1991; Amd. Sec. 2, Ord. No. 1998-203; Sept. 17, 1998.]

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## 7.224 Exemptions

It is permissible for a household to operate a solid fuel burning device within the City of Medford during a high pollution period when the head of that household has previously obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1 of each year:

(1) Economic Need: An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Low-Income Energy Assistance Program (hereinafter referred to as L.I.E.A.P.), as administered by ACCESS, Inc. or its successor. (2) Sole Source: An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residence. Sole source exemptions shall not be issued unless the residence is approved for installation of an alternative heating source through the Jackson County Housing Authority woodstove replacement program guidelines or in the absence of such a program, when the head of a household can show that the family income is less than 80% of the median income level for the Medford metropolitan area as established by the Federal Department of Housing and Urban Development (HUD). Households that qualify for an exemption based on economic need, as defined in this chapter, may continue to rely on a solid fuel burning device as the sole source of heat for the residence beyond two years from the effective date of this section. (3) Special Need: Upon a showing of special need which shall include, but not be limited to, occasions when a furnace or central heating system is inoperable other than through the owner or operator's own actions or neglect. [Amd. Sec. 3, Ord. No. 6992, October 3, 1991; Amd. Sec. 3, Ord. No. 1998-203, Sept. 17, 1998.]

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### 7.226 Abatement; Legal Proceedings

Whoever violates or fails to comply with any of the provisions of this chapter shall be subject to appropriate legal proceedings to enjoin or abate such violation or noncompliance, in addition to the penalty provided in Section 7.300 below.

[Added Ord. No. 6484, Nov. 2, 1989, effective November 20, 1989.]

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## 7.228 Administrative Regulations

The City Manager shall prescribe administrative regulations governing the procedure for granting exemptions.

[Added Ord. No. 6484, Nov. 2, 1989, effective November 20, 1989.]

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### 7.240 Installation of Solid-Fuel Heating Devices

No person shall install any new or used solid-fuel heating device in any building unless such device has been certified by the Oregon Department of Environmental Quality (DEQ) to comply with DEQ emission standards for such devices and such device bears an authorized permanent DEQ or EPA label attached by the manufacturer stating that the device has been certified. In addition to the penalties provided by this code, violation of this section shall be a public nuisance subject to abatement.

[Added Ord. No. 6686, August 2, 1990.]

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## 7.242 Prohibited Materials

It shall be unlawful for a person to cause or allow any of the following materials to be burned in a solid fuel burning device: garbage, treated wood, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated material, rubber products, animal remains, paint, animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or any other material which normally emits dense smoke or noxious odors.

[Added Sec. 4, Ord. No. 1998-203, Sept. 17, 1998.]

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## 7.300 Penalty

Violation of a provision of this Chapter 7 constitutes a violation. Each day in which a violation is caused or permitted to exist constitutes a separate violation.

[Added Sec. 4, Ord. No. 5435, May 2, 1985; Amd. Sec. 4, Ord. No. 2000-55, April 6, 2000.]

NOTE: Ordinance No. 4740 adopted by the Council Nov. 4, 1982 and signed by the Mayor Nov. 11, 1982 provides as follows:

### Section 1. General Definitions

1.1 Air stagnation advisory: Forecast made by the National Weather Service for poor ventilation conditions.

1.2 Council: The City Council of the City of Medford.

1.3 Cost-effective level of weatherization: Minimum, cost-efficient standards of weatherization, including standards for materials and installation, which shall be set by the Director of Building Safety. These standards shall reflect, but not exceed the levels defined in ORS 469.710(2).

1.4 Medford-Ashland AQMA: That part of Jackson County, Oregon, specifically identified by the Oregon Department of Environmental Quality as an air quality maintenance area -- one of several areas in the state wherein air quality has deteriorated due to unhealthful levels of pollutants in the air.

1.5 Particulate: Airborne particles ranging from .01 to 1,000 microns in size. These particles are inhaled during breathing and can be harmful.

1.6 Person: Includes individuals, corporations, associations, firms, partnerships, and joint stock companies.

1.7 Primary particulate standard: An average particulate concentration of 260 micrograms per cubic meter of air during a twenty-four hour period.

1.8 Proof of weatherization: Certification, receipts, contracts, or other such documents specifically listing weatherization steps taken by the homeowners, which may be reviewed by building inspectors at the time of solid fuel heating system installation.

1.9 Regulations: Regulations promulgated by the Council pursuant to this ordinance.

1.10 Residential building: An existing building used for permanent or seasonal habitation by one or more persons, containing four or fewer dwelling units, and constructed prior to January 1, 1979.

1.11 Residential woodburning: Utilization of a wood heating device inside a dwelling unit.

1.12 Spaceheating: Raising the interior temperature of a room or rooms.

1.13 Total suspended particulate level: Amount of particulate in ambient air.

1.14 Trackout: The deposition of mud, dirt and other debris on paved public roadways by motor vehicles; the material being so tracked onto public roadways. Trackout can become pulverized and blown into the air by vehicular traffic, where it becomes a part of the total suspended particulate level.

1.15 Ventilation index: The National Weather Service's indicator of the relative degree of air circulation for a specified area.

1.16 Wood heating devices: A stove, heater, fireplace, or other receptacle wherein wood is heated to the point of combustion.

### Section 2. Severability.

2.1 If any portion of this ordinance is declared to be invalid by a court of competent jurisdiction, such invalidity shall be confined to the section to which such declaration of invalidity relates, and the remainder of this ordinance shall continue to be operative.

### Section 3. Weatherization Requirements for Solid Fuel Heating Device Installation.

The purpose of this section is to reduce the amount of particulate pollution resulting from residential woodburning for building heating. Most buildings constructed before 1979 were built to lower weatherization standards than buildings constructed since that date. A highly weatherized and insulated building will require less fuel to attain and hold a given temperature. It will produce less smoke pollution and will also result in a savings of the wood or other fuel resource. Additionally, weatherization prior to or at the time of installation of a solid fuel heating device will generally result in the selection of a device more appropriately sized for the building and will lessen the potential amount of smoke produced. Therefore:

3.1 The installation of a wood stove, fireplace, or any other form of solid fuel, space heating device is allowed if:

A) The space heating device is installed pursuant to the uniform building code and regulations of the Medford Department of Building Safety.

B) The structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar, or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel burning, smoke producing method.

C) The residence meets or is proposed to meet within 90 days the cost-effective levels of weatherization as defined in Section 1.3 of this ordinance.

Section 4. (Repealed Ord. No. 5072, Feb. 16, 1984.)

The purpose of this section is to minimize particulate emissions from home heating devices by improving home weatherization and reducing energy loss. This section is also intended to encourage homeowners to make use of free energy audits and low-interest financing available from local utility companies. It is the City's intent to advertise and make known programs which are already available for weatherizing homes and to assist citizens in taking advantage of those programs.

4.1 It is the goal of the City of Medford to assist citizens to weatherize all residences to the cost-effective level by January 1, 1987.

4.2 All residential buildings shall have received an energy audit prior to the time of sale or rental, and such information shall be made available to potential purchasers or renters as a condition of such sale or rental. This section shall become effective six months after adoption of this ordinance.

4.3 In January of 1984, if the primary particulate health standards are not being maintained, all homes with a wood heating system shall be weatherized to cost-effective levels at the time of sale or rental.

Section 5. Pollution Episode Curtailment

The purpose of this section is to reduce the amount of particulate pollution during periods of air stagnation or when pollution levels are critical. Periods of air stagnation occur at various times in a year and can create a severe accumulation of pollutants. Residential woodburning can contribute as much as 50 percent of the particulate pollution during these conditions.

5.1 The use of residential woodburning devices is prohibited on each day that an air stagnation advisory announcement for the Medford-Ashland AQMA has been issued by the National Weather Service. This subsection takes effect on July 1, 1984, if the particulate health standard is not attained in the Medford-Ashland Air Quality Maintenance Area by that date.

5.2 Residences having no other form of space heating are exempt from this section.

Section 6. Trackout

The purpose of this section is to lessen the amount of particulate pollution which originates from roads and roadways. Dirt and other debris, which may become deposited upon paved roads, can be ground and pulverized by traffic into minute particles. These particles can then become airborne adding to the particulate pollution problem.

6.1 No person shall place or deposit mud, dirt or debris upon any street, alley, sidewalk or other public way.

6.2 Violation of subsection 6.1 is hereby declared to be a public nuisance and subject to summary abatement by the City Manager or his designate. Summary abatement includes but is not limited to suspension of any and all city permits relating to construction on the site which is the source of the mud, dirt or debris.

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## City of Central Point Municipal Code

### 8.01.010 Definitions

For the purpose of this chapter, the following definitions shall apply

A. "High pollution period" means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as "DEQ") or the Jackson County Department of Health and Human Services (hereinafter referred to as "Jackson County"). In the event that more than one consecutive days are designated as red or yellow, they shall all be considered a part of the same period.

B. "Opacity" means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured .

C. "Oregon certified solid fuel burning device" means a solid fuel burning device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules (OAR) 340-034-0045 through 340-034-0115.

D. "PM<sub>10</sub>" means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.

E. "Red day" means a twenty-four hour period beginning at seven a.m. when PM<sub>10</sub> levels are forecast by DEQ or Jackson County to be 130 µg/m<sup>3</sup> and above.

F. "Residence" means a building containing one or more dwelling units used for habitation by one or more persons.

G. "Residential woodburning" means utilization of wood in a solid fuel burning device inside a residence.

H. "Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.

I. "Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, fireplace inserts or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or stoves of Kachelofens design.

J. "Space heating" means raising the interior temperature of a room.



K. "Yellow day" means a twenty-four period beginning at seven a.m. when the  $PM_{10}$  levels are forecast by DEQ or Jackson County to be  $91 \mu\text{g}/\text{m}^3$  and above but less than  $130 \mu\text{g}/\text{m}^3$ . (Ord. 1790(part), 1998; Ord. 1661 §1(part), 1991; Ord. 1629 §1(part), 1989).

## Chapter 8.01 SOLID FUEL BURNING DEVICES

### Sections:

- 8.01.010 Definitions.
- 8.01.012 Requirements for solid fuel burning device installation.
- 8.01.014 Solid fuel burning device emission standard.
- 8.01.016 Removal of noncertified wood stoves and fireplace inserts.
- 8.01.020 Operation of solid fuel burning device prohibition.
- 8.01.030 Exemptions.
- 8.01.032 Prohibited materials.
- 8.01.040 Penalty and abatement.
- 8.01.050 Administrative regulations.

### **8.01.010 Definitions.**

For the purpose of this chapter, the following definitions shall apply:

“High pollution period” means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as “DEQ”) or the Jackson County department of health and human services (hereinafter referred to as “Jackson County”). In the event that more than one consecutive days are designated as red or yellow, they shall all be considered a part of the same period.

“Noncertified wood stove or fireplace insert” means a residential space heating device that has not been certified by either the State of Oregon Department of Environmental Quality or Federal Environmental Protection Agency as complying with smoke emission standards. “Noncertified wood stove or fireplace insert” does not include (1) devices exempt from certification requirements such as pellet stoves (a wood burning heating appliance which uses wood pellets as its primary source of fuel), (2) cook stoves (an indoor wood burning appliance the design and primary purpose of which is to cook food), (3) antique wood stoves (a wood stove built before 1940 that has an ornate construction and a current market value substantially higher than a common wood stove manufactured in the same time period), and (4) fireplaces.

“Opacity” means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.

“Oregon certified solid fuel burning device” means a solid fuel burning device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules (OAR) 340-034-0045 through 340-034-0115.

“PM10” means airborne particles ranging from .01 to ten microns in size, the breathing of which can be harmful to the human respiratory system.

“Red day” means a twenty-four-hour period beginning at seven a.m. when PM10 levels are forecast by DEQ or Jackson County to be one hundred thirty  $\mu\text{g}/\text{m}^3$  and above.

"Residence" means a building containing one or more dwelling units used for habitation by one or more persons.

"Residential woodburning" means utilization of wood in a solid fuel burning device inside a residence.

"Sale of structure" or "sale of structures" means any transaction whereby the ownership of a structure, or the real property upon which a structure is located, is conveyed by a purchase agreement, inheritance or a transfer of title, for real property.

"Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.

"Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, fireplace inserts or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or stoves of kachelofens design.

"Space heating" means raising the interior temperature of a room.

"Yellow day" means a twenty-four-hour period beginning at seven a.m. when the PM10 levels are forecast by DEQ or Jackson County to be ninety-one  $\mu\text{g}/\text{m}^3$  and above but less than one hundred thirty  $\mu\text{g}/\text{m}^3$ . (Ord. 1897 §1, 2006; Ord. 1790(part), 1998; Ord. 1661 §1(part), 1991; Ord. 1629 §1 (part), 1989).

#### **8.01.012 Requirements for solid fuel burning device installation.**

A. The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

B. It is unlawful for any new or used solid fuel burning device to be installed in the city after the effective date of the ordinance codified in this chapter, unless:

1. The device is installed pursuant to CPMC Chapter 15.04, Building Code; and
2. The solid fuel burning device complies with the Oregon DEQ particulate emission standards for such devices or is exempt under OAR 340-034-0015; and
3. For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric oil, solar or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel burning device.

C. If the conditions set forth in this section are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device. (Ord. 1790(part), 1998).

**8.01.014 Solid fuel burning device emission standard.**

A. Within the city, no person owning or operating a solid fuel burning device shall at any time cause, allow or discharge emissions from such device which are of an opacity greater than fifty percent.

B. The provisions of this section shall not apply to emissions during the starting or refuelling of a new fire for a period not to exceed thirty minutes in any four-hour period.

C. For the purposes of this section, opacity percentages shall be determined by a certified observer using the standard visual method listed in 40 CFR 60A, method 9, or operation of equipment approved by Jackson County that is known to produce equivalent or better accuracy. (Ord. 1790 (part), 1998).

**8.01.016 Removal of noncertified wood stoves and fireplace inserts.**

A. Unless otherwise agreed, the responsibility for removal of noncertified wood stoves or fireplace inserts shall be the responsibility of the seller of the structure(s) which contain the noncertified wood stove(s) or fireplace insert(s).

B. The presence of all wood stoves or fireplace inserts in the structure shall be included as part of the seller's property disclosure presented to the new owner, as part of the sale or transfer of any real property. The disclosure shall evidence by certificate, whether any wood stoves or fireplace inserts are of a conforming use, and present in the subject property.

C. Unless otherwise agreed, all noncertified wood stoves and fireplace inserts must be removed from the structure upon sale or transfer of a structure containing any noncertified wood stove(s) and fireplace insert(s). If the seller assumes the responsibility of removal, then such removal shall be completed on or before the closing or title transfer of any real estate. Should the buyer or the undersigned owner assume the responsibility of removal, the responsible party shall complete the removal within thirty calendar days after the recordation of title and evidence the removal, as stated herein.

The certificate shall be in substantially the following form:

**WOOD STOVE/FIREPLACE INSERT DISCLOSURE CERTIFICATE**

The undersigned seller discloses to the undersigned owner the presence of wood stoves or fireplace inserts located at property which has the following address: \_\_\_\_\_

The wood stoves or fireplace inserts are generally described as:

The wood stoves or fireplace inserts are:

	Certified	Noncertified
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

4. \_\_\_\_\_

Seller and the undersigned owner, understand that the City of Central Point's wood stove/fireplace insert ordinance requires noncertified wood stoves or fireplace inserts to be removed from the subject structures upon sale; and that the seller shall have the responsibility for the removal of the wood stoves or fireplace inserts, unless the seller and the undersigned owner agree in writing, that the undersigned owner shall assume the responsibility to remove the wood stove(s) or fireplace insert(s) pursuant to the local ordinance.

The responsibility for removing any noncertified wood stoves or fireplace inserts shall be:

\_\_\_\_\_ Responsibility of the seller

\_\_\_\_\_ Responsibility of the undersigned owner

The seller and the undersigned owner also understand, this certificate must be completed and signed by both parties, delivered to the City of Central Point Building Department on or before the closing of any related real estate transaction. Further, all obligations stated herein, survive the close of escrow or transfer of title.

Any person who violates the provisions in this Certificate shall be subject to the City's general penalty.

Dated: \_\_\_\_\_

\_\_\_\_\_

Seller

\_\_\_\_\_

Undersigned Owner

D. The disclosure(s) and certificate must be executed by both seller and the undersigned owner on or before the closing of any real estate transfer involving real property, upon which the structure(s) containing the wood stoves or fireplace inserts are involved. Upon the complete execution of the disclosure certificate, a copy must be submitted to the city of Central Point building department by the responsible designee. Delivery of the disclosure certificate is required for any transfer of title, whether the real estate transaction is closed in escrow or closed by the seller and the undersigned owner without a closing escrow.

E. Failure of the seller, or the undersigned owner, to provide a disclosure certificate, required by this section, demonstrating the subsequent removal of a noncertified wood stove(s) or fireplace insert(s) from a structure, required by this section, shall be subject to the city's general penalty. (Ord. 1897 §2, 2006).

**8.01.020 Operation of solid fuel burning device prohibition.**

A. The operation of a solid fuel burning device during a high pollution period shall be prohibited unless an exemption has been granted pursuant to Section 8.01.030. A presumption of a violation for which a citation may be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of a high pollution period.

B. Notwithstanding subsection A of this section, the operation of an Oregon certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed thirty minutes in any four-hour period.

C. After August 31, 1994, no property owner shall rent or lease a residential unit unless such unit is equipped with an alternate heat source complying with ORS 91.770. If the landlord violates this subsection B, the tenant shall not be charged with any violation of subsection A of this section. (Ord. 1790(part), 1998; Ord. 1661 §1(part), 1991; Ord. 1629 §1(part), 1989).

**8.01.030 Exemptions.**

It is permissible for a household to operate a solid fuel burning device during a high pollution period when the head of that household has previously obtained one of the following exemptions and possesses a certificate issued by the city granting the exemption:

A. Economic Need. An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show that they meet the eligibility requirements for energy assistance under the Low-Income Energy Assistance Program (hereinafter referred to as L.E.A.P.), as administered by ACCESS, Inc. and as established by the United States Department of Energy. Exemptions under this subsection shall expire on September 1st of each year.

B. Special Need. Upon a showing of special need, as further defined by administration rule, a temporary exemption may be granted authorizing the burning of a solid fuel burning device notwithstanding Section 8.01.020(A). "Special need" shall include, but not be limited to, occasions when a furnace or central heating system is inoperable other than through the owner or operator's own actions or neglect. (Ord. 1790(part), 1998; Ord. 1732, 1996; Ord. 1661 §1(part), 1991; Ord. 1629 §1(part), 1989).

**8.01.032 Prohibited materials.**

It is unlawful for a person to cause or allow any of the following materials to be burned in a solid fuel burning device: garbage, treated wood, plastic, wire, insulation, automobile parts, asphalt, petroleum products, petroleum treated material, rubber products, animal remains, paint, animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or any other material which normally emits dense smoke or noxious odors. (Ord. 1790(part), 1998).

**8.01.040 Penalty and abatement.**

Any person or persons violating any of the provisions of this chapter shall upon conviction be punished in accordance with the general penalty ordinance of the city and shall be subject to appropriate legal proceedings to enjoin or abate any violation or noncompliance. (Ord. 1790(part), 1998; Ord. 1661 §1(part), 1991; Ord. 1629 §1(part), 1989).

**8.01.050 Administrative regulations.**

The city manager may prescribe administrative regulations governing the procedure for granting exemptions. (Ord. 1969 §1, 2013; Ord. 1790(part), 1998; Ord. 1661 §1(part), 1991; Ord. 1629 §1(part), 1989).

**The Central Point Municipal Code is current through Ordinance 1973, passed June 27, 2013.**

Disclaimer: The City Recorder's Office has the official version of the Central Point Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

Pursuant to the charter and Ordinance 1969, all references throughout the code to "city administrator" have been changed to "city manager."

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City Telephone: (541) 664-6204

## Chapter 8.04 NUISANCES<sup>1</sup>

### Sections:

- 8.04.010 Mill pond--Nuisance.
- 8.04.020 Mill pond--Unlawful.
- 8.04.030 Poplar trees.
- 8.04.035 Unlawful accumulation of junk.
- 8.04.040 Nuisances affecting public health.
- 8.04.050 Attractive nuisances.
- 8.04.060 Ice and snow removal.
- 8.04.070 Drainage of surface waters.
- 8.04.080 Unnecessary noise.
- 8.04.090 Keeping bees.
- 8.04.095 Trackout prohibited.
- 8.04.100 Abatement--Notice.
- 8.04.110 Abatement--By owner.
- 8.04.120 Abatement--By city.
- 8.04.130 Abatement--Assessment of costs.
- 8.04.140 Summary abatement.
- 8.04.150 Penalty.

#### **8.04.010 Mill pond--Nuisance.**

The construction and maintenance of a mill pond or other open pond to be filled with water and used in connection with operation of any sawmill, planing mill or like operations is and the same is declared to be a nuisance and dangerous to the public health and welfare of the citizens of the city. (Ord. 301 §1, 1951).

#### **8.04.020 Mill pond--Unlawful.**

It is unlawful for any person, persons, firm or corporation or any agent for such person, persons, firm or corporation, or an employee thereof to construct and maintain any pond or open excavation to be filled with water and used in the operation of any sawmill, planing mill or other mill business. (Ord. 301 §2, 1951).

#### **8.04.030 Poplar trees.**

Because of the destructive character of the roots of the poplar trees, in the upheaval of sidewalks and the stoppage of sewer pipes, located and growing within the city said trees are declared to be a nuisance and may be removed and abated according to this chapter. (Ord. 880 §1, 1967).

#### **8.04.035 Unlawful accumulation of junk.**

A. No person shall cause or allow an unsightly or malodorous accumulation of junk, garbage, animal feces, scrap metal, scrap lumber, used tires, discarded building material, discarded vehicles or parts thereof, appliances or fixtures, or dismantled machinery on public or private property unless the



~~property is in lawful use for junk storage or recycling in compliance with applicable state and federal laws and this code.~~

~~B. A violation of this section shall be punishable under and subject to the terms of the general penalty section contained in Chapter 1.16 of this code.~~

~~C. In addition, the unlawful accumulation of junk as defined by this section is declared to be a nuisance and may be abated as provided for hereinafter in this chapter. (Ord. 1577, 1986).~~

**8.04.040 Nuisances affecting public health.**

The following are declared to be nuisances affecting the public health and may be abated in the manner prescribed by this chapter:

~~A. Privies. Any open vault or privy maintained within the city, except those privies used in connection with construction projects and constructed in accordance with the directions of the city engineer;~~

~~B. Debris on Private Property. All accumulations of debris, rubbish, manure and other refuse located on private property and which has not been removed within a reasonable time and which affects the health, safety or welfare of the city;~~

~~C. Stagnant Water. Any pool of water which is without a proper inlet or outlet and which, if not controlled, will be a breeding place for mosquitoes and other similar insects;~~

~~D. Water Pollution. The pollution of any body of water or stream or river by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water;~~

~~E. Food. All decayed or unwholesome food which is offered for human consumption;~~

~~F. Odor. Any premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition;~~

~~G. Burning Garbage or Refuse. Any burning of garbage or refuse;~~

~~H. Air Pollution. The pollution of any air within the city, whether from a source within or without the city, by depositing smoke, particulate, odor or heat into the air by any means;~~

~~I. Any street, road, alley, bridge, culvert, ditch or body of water within the city, whether privately or publicly owned, which is open to use by the public, and which is in such a condition or state of disrepair as to constitute an immediate hazard to the health, safety or welfare of any person. (Ord. 1341 §1, 1979; Ord. 1309 §1, 1978; Ord. 877, 1967; Ord. 860, 1967; Ord. 817 §1, 1966).~~

**8.04.050 Attractive nuisances.**

~~A. No owner, lessee, occupant or other person having control, custody or management of any premises shall suffer or permit to remain unguarded upon the premises any machinery, equipment or other devices which are attractive and dangerous to children.~~

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B. No owner, lessee, occupant or person having control, custody or management of any premises shall suffer or permit to remain unguarded upon the premises a pit, quarry, cistern, well or other excavation.

C. A nuisance as described in this section may be abated as provided in this chapter. (Ord. 817 §2, 1966).

#### **8.04.060 Ice and snow removal.**

No person owning or controlling premises, improved or unimproved, abutting upon a public sidewalk within the city shall:

A. Permit snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen;

B. Permit the sidewalk to be covered with ice. It shall be the duty of the person within the first two hours of daylight after the ice has formed to remove ice accumulating on the sidewalk or to properly cover it with sand, ashes or other suitable material to assure safe travel. (Ord. 817 §3, 1966).

#### **8.04.070 Drainage of surface waters.**

A. No person, owning or controlling any real property shall permit rainwater, ice or snow to fall from a building or structure upon a street or sidewalk or permit any type of surface water from any source whatsoever to flow from the premises across or upon any sidewalk abutting his property.

B. It is made the duty of each person owning or controlling real property abutting upon any sidewalk to provide a proper system of drainage so that any overflow water will not be carried across or upon any sidewalk.

C. The improper drainage of any type of water from any source across or upon any sidewalk is declared to be a nuisance and may be abated as provided in this chapter. (Ord. 817 §4, 1966).

#### **8.04.080 Unnecessary noise.**

A. No person shall create, assist in creating, permit, continue or permit the continuance of any loud, disturbing or unnecessary noise in the city.

B. The following acts are declared to be violations of this section, but the enumeration shall not be deemed to be exclusive:

1. The keeping of any animal which by frequent or loud continued noise disturbs the comfort and repose of any person in the vicinity;
2. The use of any vehicle or engine, stationary or moving instrument, device or thing so out of repair or so loaded or operated in such a manner as to create loud or unnecessary grating, grinding, rattling or other noises;
3. The sounding of any horn or signal device on any vehicle on any street or public place of the city, except as a necessary warning of danger to property or person;

4. The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled;
5. The erection, including excavation, demolition, alteration or repair of any building, other than between the hours of seven a.m. and six p.m., except upon special permit granted by city staff;
6. The use of any gong or siren upon any vehicle other than fire vehicle or other duly authorized emergency vehicle;
7. The operation of any gasoline engine without having the same equipped with and using thereupon a muffler;
8. The use of a "muffler cutout" on any motor vehicle upon any street;
9. The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker or any sound amplifying device so loud as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided however, that upon application to city staff permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment, said staff to be guided by all considerations of weighing the utility of the use applied for against the harm, if any, to other persons caused by such use;
10. The conducting, operating or maintaining of any garage within one hundred feet of any building used as a private residence, apartment house, rooming house or hotel in such a manner as to cause loud or offensive noises to be emitted therefrom between the hours of eleven p.m. and seven a.m. (Ord. 1755 §1, 1996; Ord. 817 §5, 1966).

#### **8.04.090 Keeping bees.**

- A. No person shall have, keep or maintain or permit to be kept or maintained upon land under his control, any hives, swarms or colonies of bees.
- B. The keeping or maintaining of any hives, colonies or swarms of bees is declared to constitute a public nuisance and may be abated as provided in this chapter. (Ord. 817 §6, 1966).

#### **8.04.095 Trackout prohibited.**

- A. No person shall, by driving or moving a vehicle or by any other means, track or deposit mud, soil or debris of any kind onto the surface of any street, alley, sidewalk or public way.
- B. The tracking of mud, soil or debris onto streets, alleys, sidewalks or public ways is declared to constitute a public nuisance and may be abated as provided in this chapter. (Ord. 1705, 1994).

#### **8.04.100 Abatement--Notice.**

- A. Upon determination by the city's code enforcement officer that a nuisance as defined in this chapter exists, the code enforcement officer shall forthwith cause a notice to be posted on the premises liable for the abatement directing the removal of the nuisance.

~~B. At the time of posting, the recorder shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the owner or agent in charge of the property at the last known address of the owner or agent.~~

~~C. The notice to abate shall contain:~~

- ~~1. A description of the real property, by street address or otherwise, on which the nuisance exists;~~
- ~~2. A direction to remove the nuisance within seven days from the date of the notice;~~
- ~~3. A description of the nuisance;~~
- ~~4. A statement that unless the nuisance is removed within the specified period the city will remove the nuisance and the cost of removal shall be a lien against the property;~~
- ~~5. A statement that the owner or agent in charge of the property may protest the action by giving notice to the recorder within two business days from the date of the notice.~~

~~D. The person posting and mailing the notice as provided herein shall, upon completion of the posting and mailing, execute and file a certificate stating the date and place of the mailing and posting.~~

~~E. An error in the name or address of the owner or agent in charge of the property or the use of a name other than that of the owner or agent shall not make the notice void and in such a case the posted notice shall be deemed sufficient. (Ord. 1896 §1, 2006; Ord. 817 §7, 1966).~~

#### ~~8.04.110 Abatement--By owner.~~

~~A. Within seven days after the posting and mailing of the notice as provided in this chapter, the owner or agent in charge of the property shall remove and abate the nuisance or show that no nuisance exists.~~

~~B. The owner or agent in charge protesting that no nuisance in fact exists shall file with the recorder a written statement which shall specify the basis for contending that no nuisance exists.~~

~~C. The statement shall be referred to the city manager, who shall thereupon determine whether a nuisance in fact exists.~~

~~D. The city manager's decision may be appealed to the city council by filing a written request for review no later than three business days after receipt of the city manager's written decision. City council review shall be conducted at the next available city council meeting, at which time all parties with relevant information shall be allowed to be heard.~~

~~E. Upon final determination that a nuisance does in fact exist, the owner or agent shall within three days after such final determination remove or abate such nuisance. (Ord. 1969 §1, 2013; Ord. 1896 §2, 2006; Ord. 817 §8, 1966).~~

**8.04.120 Abatement--By city.**

A. If within the time fixed, as provided in this chapter, the nuisance has not been abated by the owner or agent in charge of the property, the city's code enforcement officer shall cause the nuisance to be abated.

B. The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon any property in accordance with the provisions of Chapter 1.12 to investigate or cause the removal of the nuisance.

C. The finance director shall maintain an accurate record of the expense incurred by the city in abating the nuisance and shall include an overhead charge to cover the cost of administration.

D. The total cost, including the administrative overhead, shall thereupon be assessed to the property as hereinafter provided. (Ord. 1896 §3, 2006; Ord. 817 §9, 1966).

**8.04.130 Abatement--Assessment of costs.**

A. A notice of the assessment shall be forwarded by registered or certified mail, postage prepaid, to the owner or agent in charge of the property by the recorder. The notice shall contain:

1. The total cost, including administrative overhead, of the abatement;
2. A statement that the cost as indicated will become a lien against the property unless paid within sixty days;
3. A statement that if the owner or agent in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the recorder within thirty days from the date of the notice.

B. Upon the expiration of thirty days after the date of the notice, objections to the proposed assessment shall be heard and determined by the council in its regular course of business.

C. An assessment for the cost of abatement as determined by the council shall be made by resolution of the council and shall thereupon be entered in the docket of city liens and, upon such entry being made, it shall constitute a lien upon the property from which the nuisance was removed and abated.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of six percent per year. Such interest shall commence to run thirty days after the entry of the lien in the lien docket.

E. An error in the name of the owner or agent in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property. (Ord. 817 §10, 1966).

**8.04.140 Summary abatement.**

The abatement procedure provided by Sections 8.04.100 through 8.04.130 is not exclusive; and furthermore, the health officer, the chief of the fire department and the police officers of this city may

~~proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property. (Ord. 817 §11, 1966).~~

~~**8.04.150 Penalty.**~~

~~Any person convicted of maintaining any nuisance as defined or prohibited in this chapter shall be subject to punishment under the general penalty ordinance. Each day of such violation constitutes a new offense. (Ord. 1716 §10, 1995; Ord. 817 §12, 1966).~~

~~<sup>1</sup>For statutory provisions regarding nuisances, see ORS 221.915; for the provisions regarding actions and suits for nuisances, see ORS 105.505--105.520; for the Charter provisions concerning nuisances, see City Charter Art. VII §4.~~

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~~ASHLAND: OPEN BURNING~~

10.30.005 Definitions

The following words and phrases whenever used in this chapter shall be construed as defined in this section unless from the context a different meaning is intended.

- A. "Fire Chief" means the City of Ashland Fire Chief or the Chief's representative.
- B. "Campfire" means any fire for cooking located outside of a building or recreational vehicle.
- C. "Outdoor fire" includes any fire except a fire for cooking.
- D. "Person in charge" means a person or a representative or an employee of a person who has lawful control of the site of the fire by ownership, tenancy, official position or other legal relationship.
- E. "Ventilation index" means the National Weather Service's indicator of the relative degree of air circulation in the Rogue Valley.



### 10.30.010 Outdoor and Indoor Burning Restricted

- A. No person shall start or maintain any outdoor fire except as authorized in this chapter.
- B. No person in charge shall cause or knowingly allow any outdoor fire to be started or maintained on any part of such premises, except as authorized in this chapter.
- C. Except for religious fires, any outdoor fire authorized in this chapter shall only be used to burn woody debris such as limbs or branches. No person shall start or maintain any outdoor fire authorized in this chapter in a barrel.
- D. No person shall start or maintain any campfire except as provided in this chapter. It is an affirmative defense to a prosecution of any charge under this subsection that the campfire was authorized by the person in charge.

(Ord. 2822 S2, 1998)

### 10.30.020 Period When Outdoor Burning is Authorized

After a permit is obtained from the Fire Chief, outdoor fires are authorized as follows:

A. From March 1, 1997, through October 31, 1997, excluding fire season, when the ventilation index is over 400 and fire fuel conditions are conducive to burning.

1. The council may authorize outdoor fires between March 1 and October 31 of each year after 1997, excluding fire season, when the ventilation index is over 400 and fire fuel conditions are conducive to burning by adopting a resolution to that effect in February of the year for which such fires are to be authorized. An authorization by resolution under this subsection shall be valid for no more than one year at a time.

2. Except as provided in subsection A.1 of this section, after October 31, 1997, outdoor fires are authorized each year only during April, May, and September 15 to October 15, excluding fire season, when the ventilation index is over 400 and fire fuel conditions are conducive to burning. The Fire Chief shall have the authority to extend the dates for outdoor fires beyond October 15, but not beyond November 1, for any year in which fire conditions do not allow burning during some or all of the period between September 15 to October 15.

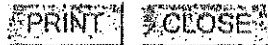
B. Outdoor fires are permitted on any day of the year the ventilation index is over 400 if fire fuel conditions are conducive to burning and the outdoor fire is for the purpose of burning a structure or other use of fire for training purposes by the Fire Department or under supervision of the Fire Department;

C. Religious fires are permitted on any day of the year after notice of the specific date to the Fire Chief and provided that all safety precautions required by the Fire Chief are met.

D. Campfires in areas designated by the Park Commission are permitted in Lithia Park on any day of the year except during periods of extreme fire danger.

The Fire Chief shall annually report to the council in January of each year the outdoor fires regulated under this section and any recommendations the Chief may have regarding such fires or this section. The council shall then consider the report.

(Ord 2795, 1997; Ord 2862, 2000)



### 10.30.030 Requirements for Permitted Fires

All outdoor fires permitted under this chapter shall comply with the following requirements.

A. All fires shall conform with Article 11 of the Uniform Fire Code.

B. Except for religious fires, all fires shall occur during daylight hours only and shall be extinguished prior to darkness unless continued burning is specifically authorized by the Fire Chief.

C. All fires shall occur only in the presence of an adult person who shall constantly monitor the fire.

### 10.30.040 Permits Required

An outdoor fire permit is required for all outdoor fires authorized under this chapter. The Fire Chief shall have the authority to issue such permits. Except for religious fires the Fire Chief shall have the authority to establish and assess a fee for any necessary investigation, inspection and processing of each permit. The fee shall not exceed the actual cost of the investigation, inspection and processing.

A. Upon receipt of a request for a permit and the required fee, the Fire Chief shall undertake whatever investigation deemed necessary. Based on this investigation, the Fire Chief shall approve the permit only when it is determined the fire does not constitute a hazard and that steps have been taken to assure reasonable public safety. In addition, the Fire Chief may deny a permit for fires allowed under Section 10.30.020.B if it is determined that the debris proposed for burning has a high moisture content and would burn better after a period of aging.

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~~10.30.050 Enforcement and Penalties~~

~~A. Any person, firm or corporation, whether as a principal agent, employee or otherwise, violating or causing violation of any of the provisions of this ordinance, has committed an infraction, and upon conviction thereof, is punishable as prescribed in Section 1.08.020 of the Ashland Municipal Code. Such person, firm or corporation is guilty of a separate violation for each and every day during which any violation of this Title is committed or continued by such person, firm or corporation.~~

~~B. Outside burning without a permit or a campfire in violation of this chapter is a public nuisance and may be summarily abated by the Fire Chief, Chief of Police, or their representatives.~~

(Ord. 2535, 1989; 2637, 1991, 2671, 1992; Ord. 2717, 1993)

# ASHLAND: WOODSTOVES

## 9.24.010 Definitions

For the purposes of this Chapter, the following definitions apply:

A. "High pollution period" means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (further referred to in this chapter as DEQ) or the Jackson County Department of Health and Human Services. In the event more than one consecutive days are designated as red or yellow, they shall all be considered a part of the same period.

B. "Opacity" means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.

C. "Oregon certified stove" means a solid fuel burning device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules 340-34-045 through 340-34-115.

D. "PM10" means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.

E. "Red day" means a 24-hour period beginning at 7 a.m. when PM10 levels are forecast by the DEQ or the Jackson County Department of Health and Human services to be 130 Fg/m<sup>3</sup> and above.

F. "Residence" means a building containing one or more dwelling units used for habitation by one or more persons.

G. "Residential Woodburning" means utilization of wood in a solid fuel heating device inside a residence.

H. "Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity, or propane.

I. "Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, fireplace inserts, or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or Kachelofens.

J. "Space Heating" means raising the interior temperature of a room.

K. "Yellow day" means a 24-hour period beginning at 7 a.m. when the PM10 levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be 91 Fg/m<sup>3</sup> and above but less than 130 Fg/m<sup>3</sup>.

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### 9.24.020 Requirements for Solid Fuel Heating Device Installation

The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

A. It shall be unlawful for any new or used solid fuel heating device to be installed in the City of Ashland after the effective date of this Ordinance, unless:

1. The device is installed pursuant to the City Building Code and regulations of the Department of Planning and Development; and
2. The solid fuel heating device complies with the Oregon Department of Environmental Quality Particulate Emission standards for certified woodstoves; and
3. For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar, or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel heating device.

B. If the conditions set forth in this subsection are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device.

### 9.24.030 Solid Fuel Burning Device Emission Standard

A. Within the City of Ashland, no person owning or operating a solid fuel burning device shall at any time cause, allow, or discharge emissions from such device which are of an opacity greater than 40 percent.

B. The provisions of this subsection shall not apply to emissions during the starting or refueling of a new fire for a period not to exceed 30 minutes in any four-hour period.

C. For the purposes of this section opacity percentages shall be determined by a certified observer using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County Department of Health and Human Services that is known to produce equivalent or better accuracy.

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## 9.24.040 Restriction of Woodburning and Emissions on High Pollution Days

### Operation of Solid Fuel Burning Device Prohibition.

The operation of a solid fuel burning device within the City of Ashland during a high pollution period shall be prohibited unless an exemption has been granted pursuant to section 9.24.040.B. A presumption of violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of the high pollution period.

Notwithstanding section 9.24.040A.1, the operation of an Oregon certified stove shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed 30 minutes in any four-hour period.

After June 30, 2000, no property owner within the City of Ashland shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device, unless the landlord has a valid exemption under section 9.24.040.B.2. Should a violation of this section occur it shall be attributable to the property owner and not to the tenant or lessee.

**Exemptions.** It is permissible for a household to operate a solid fuel burning device within the City of Ashland during a high pollution period when the head of that household has obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1 of each year.

**Economic Need:** An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Federal Department of Energy Low-income Energy Assistance Program, as administered by ACCESS, Inc. or other approved entity.

**Sole Source:** An exemption may be issued to the heads of households who sign a statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residence. Sole source exemptions shall not be issued after June 30, 2000, unless the residence is approved for installation of an alternative heating source through a woodstove replacement program guidelines or in the absence of such a program when the head of the household can show that the family income is less than 80% of the median income level for the Medford metropolitan area as established by the Federal Department of Housing and Urban Development.

**3 Special Need:** Upon a showing of special need, as determined by the city administrator or designee, a temporary exemption may be granted authorizing the burning of a solid fuel burning device notwithstanding section 9.24.040.A.1. "Special need" shall include, but not be limited to occasions when a furnace or central heating system is inoperable other than through the owner or operator's own actions or neglect.

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### 9.24.050 Prohibited Materials

It shall be unlawful for a person to cause or allow any of the following materials to be burned in a solid fuel burning device: garbage, treated wood, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated material, rubber products, animal remains, paint, animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or any other material which normally emits dense smoke or noxious odors.

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### 9.24.060 Penalty

Any person violating or causing the violation of any of the provisions of this Chapter shall be punishable as prescribed in Section 1.08.020 of the Ashland Municipal Code.

(Passed by voters November 6, 1990; wording from Resolution 90-44, Sept., 1990) (Ord. 2822 S1, 1998)

## ORDINANCE #565

**Talent: Open Burning**

AN ORDINANCE OF THE CITY OF TALENT ADOPTING A UNIFORM FIRE CODE - PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE OR EXPLOSION - ESTABLISHING A BUREAU OF FIRE PREVENTION AND PROVIDING OFFICERS THEREFORE - DEFINING POWERS AND DUTIES - EFFECTIVE DATE.

The City of Talent ordains as follows:

**Section 1. [Adoption of Fire Prevention Code]** There is hereby adopted by the City of Talent, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Uniform Fire Code as recommended by the International Conference of Building Officials and the Western Fire Chiefs Association, being particularly the 1991 edition as hereinafter deleted, modified or amended, and the same is hereby adopted and incorporated as fully as if set out at length herein.

**Section 2. [Application to New and Existing Conditions]** The provisions of this code shall apply equally to new and existing conditions, except that existing conditions not in strict compliance with the terms of this code shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or adjoining property.

**Section 3. [Liability for Damage]** This code shall not be construed to affect the responsibility of any person owning, operating or installing any equipment for damage to persons or property caused by any defect therein; nor shall the City of Talent be held as assuming any such liability by reason of the inspection or reinspection authorized herein or the permit issued as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.

**Section 4. [Adoption of State Laws - Conflict]** All the provisions of ORS 479.010 to 479.200, inclusive, are hereby adopted as a part of this ordinance and, by reference, hereby made a part hereof as though fully set forth herein; provided, however, that if any regulation contained in any of said statutes conflicts with any other regulation contained in this ordinance, then the more restrictive regulation shall apply.

**Section 5. [Definitions]** As used in this ordinance:

- (a) Agricultural Operation means the activity on land currently used or intended to be used primarily for the purpose of obtaining a profit by raising, harvesting and selling crops or by raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose.
- (b) Agricultural Waste means any material actually generated or used by an agricultural operation but excluding those materials described in Section 11 of this ordinance.
- (c) Municipality as used in the Uniform Fire Code means the City of Talent
- (d) Corporation Counsel as used in the Uniform Fire Code means the attorney of the City of Talent. (Amended by Ordinance #633 - adopted February 18, 1998)

**Section 6. [Establishment and Duties of Bureau of Fire Prevention]** There is hereby established a Bureau of Fire Prevention within the fire department of the City of Talent which shall be under the supervision of the chief of the fire department.

**Section 7. [Delegation of Authority]** The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the city administrator the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. Such inspectors shall be appointed after examination and the appointment shall be for an indefinite term with removal only by the city council for cause.

**Section 8. [Establishment of Limits of Districts in Which Storage of Explosives and Blasting Agents is to be Prohibited]** The limits referred to in Section 77.201 of the uniform fire code are as follows:

The planning commission shall recommend to the city council a location for such a storage if the location is outside of the principal business district, closely built commercial areas, and heavily populated areas; the code shall be enforced in full as detailed in Section 77.201. Prior to a permit being issued, the chief of the fire department, or designee, shall inspect and approve the location. Joint approval shall be obtained from all departments concerned.

**Section 9. [Penalties]** Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or any permit or certificate issued thereunder, and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, with the time fixed herein; shall severally for each and every such violation and noncompliance respectively be guilty of an infraction punishable by a fine of not less than \$25.00 nor more than \$100.00. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that the prohibited conditions are maintained shall constitute a separate offense.

**Section 10. [Modifications]** The chief of the fire department shall have power to modify any of the provisions of the fire prevention code, upon application in writing by the owner or lessee, or duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided, that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed, and the decision of the chief of the fire department thereon, shall be entered upon the records of the department; and a signed copy shall be furnished the applicant.

Section 11. [Amendments to the Uniform Fire Code] The Uniform Fire Code shall be amended as follows:

(a) Open Burning:

- (1) The purpose of this section is to minimize the accumulation of PM-10 air pollution resulting from open burning. The public should be aware that open burning may also be restricted during the fire season (typically June through October) by the fire department or other fire regulating authorities. These authorities base their restrictions of open burning on such factors as low humidity, high winds, drought, or other conditions which make outside burning unsafe.
- (2) Open burning of any kind is prohibited throughout the incorporated limits of the City of Talent on all days of the year when the maximum ventilation index is below 400.
- (3) Open burning of any kind is prohibited within the incorporated limits of the City of Talent during November, December, January and February of each year due to generally poor smoke dispersion.
- (4) Open burning of any wet garbage, plastic, wire insulation, automobile parts, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or of any other material which normally emits dense smoke or noxious odors is prohibited throughout the incorporated limits of the City of Talent.
- (5) The provisions of this section do not apply to open burning of agricultural wastes which is necessary for disease or pest control.

(b) Permit Required:

The city council shall adopt a burn program by resolution providing for permit procedures related to open burning within the City of Talent.

(Amended by Ordinance #633 - adopted February 18, 1998)

Section 12. [Appeals] Whenever the fire chief shall refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city council. Such appeal shall be made in writing within ten (10) days from the service of the order or denial of the permits; after a decision from the corporation counsel, the fire chief shall affirm, modify or revoke the decision; and the appealing person shall, within the time limit then set by the fire chief, comply with the order as affirmed or modified; provided, that if the decision of the fire chief is revoked, then the permit shall be forthwith granted or the order appealed from shall be deemed vacated.

**Section 13. [New Materials, Processes or Occupancies which may Require Permits]** The corporation counsel, the chief of the fire department and the city building official shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in said code.

**Section 14. [Repealer]** Upon the adoption of this ordinance, Talent Ordinance #366, as amended, adopted August 1977, is repealed.

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**Section 15. [Validity]** The city council hereby declares that should any section, paragraph, sentence or work of this ordinance or of the code hereby adopted be declared for any reason to be invalid, it is the intent of the city council that it would have adopted all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

**Section 16. [Effective Date]** Under the provisions of the Talent Charter of 1958, Section 35, an emergency is hereby declared and the provisions of this ordinance shall take effect upon passage.

(Adopted the 19th day of August, 1992 and signed by the mayor on the 20th of August, 1992)

# Talent: Wood Stoves

4-9.1

Talent Ordinance

4-9.1

## ORDINANCE #98-635-0

### AN ORDINANCE REGULATING THE USE OF SOLID FUEL BURNING DEVICES WITHIN THE CITY OF TALENT, OREGON.

The City of Talent ordains as follows:

- I. [Definitions] As used in this ordinance:
- (A) High Pollution Period means a period of time commencing three (3) hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as DEQ) or the Jackson County Department of Health and Human Services. In the event more than one (1) consecutive days are designated as red or yellow, they shall all be considered a part of the same period.
  - (B) Opacity means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.
  - (C) Oregon Certified Stove means a solid fuel burning device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules 340-34-045 through 340-34-115.
  - (D) PM<sub>10</sub> means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.
  - (E) Red Day means a twenty-four (24) hour period beginning at 7:00am when PM<sub>10</sub> levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be 130 ug/m<sup>3</sup> and above.
  - (F) Residence means a building containing one or more dwelling units used for habitation by one or more persons.
  - (G) Residential Woodburning means utilization of wood in a solid fuel heating device inside a residence.
  - (H) Sole Source of Heat means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity, or propane.
  - (I) Solid Fuel Burning Device means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, fireplace inserts, or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or Kachelofens.
  - (J) Space Heating means raising the interior temperature of a room.
  - (K) Yellow Day means a twenty-four (24) hour period beginning at 7:00 am when the PM<sub>10</sub> levels are forecast by the DEQ of the Jackson County Department of Health and Human Services to be 91 ug/m<sup>3</sup> and above but less than 130 ug/m<sup>3</sup>.



II. [Requirements for Solid Fuel Heating Device Installation] The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

- (A) It shall be unlawful for any new or used solid fuel heating device to be installed in the City of Talent after the effective date of this ordinance, unless:
- (1) The device is installed pursuant to the City Building Code and regulations of the Department of Planning and Development; and
  - (2) The solid fuel heating device complies with the Oregon Department of Environmental Quality Particulate Emission standards for certified woodstoves; and
  - (3) For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar, or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel heating device.
- (B) If the conditions set forth in this subsection are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device.

III. [Solid Fuel Burning Device Emission Standard]

- (A) Within the City of Talent, no person owning or operating a solid fuel burning device shall at any time cause, allow, or discharge emissions from such device which are of an opacity greater than fifty percent (50%).
- (B) The provisions of this subsection shall not apply to emissions during the starting or refueling of a new fire for a period not to exceed thirty (30) minutes in any four (4) hour period.
- (C) For the purposes of this section opacity percentages shall be determined by a certified observer using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County Department of Health and Human Services that is known to produce equivalent or better accuracy.

**IV. [Restriction of Woodburning and Emissions on High Pollution Days]****(A) Operation of Solid Fuel Burning Device Prohibition**

- (1) The operation of a solid fuel burning device within the City of Talent during a high pollution period shall be prohibited unless an exemption has been granted pursuant to Section IV(B) of this Chapter. A presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three (3) hours has elapsed from the time of declaration of the high pollution period.
- (2) Notwithstanding subsection (A)(1) of this section, the operation of an Oregon certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue of chimney after a time period of three (3) hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed thirty (30) minutes in any four (4) hour period.
- (3) After two (2) years from the effective date of this ordinance, no property owner within the City of Talent shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device, unless the landlord has a valid exemption under Section IV (B)(2) of this chapter. Should a violation of this section occur it shall be attributable to the property owner and not to the tenant or lessee.

(B) Exemptions It is permissible for a household to operate a solid fuel burning device within the City of Talent during a high pollution period when the head of that household has obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1st of each year.

- (1) Economic Need: An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Federal Department of Energy Low-Income Energy Assistance Program (hereinafter referred to as L.I.E.A.P.), as administered by ACCESS Inc. or its successor.

## IV. [Restriction of Woodburning and Emissions on High Pollution Days] cont.

- (2) Sole Source An exemption may be issued to the heads of households who sign a statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residence. Sole source exemptions shall not be issued after two (2) years from the effective date of this ordinance, unless the residence is approved for installation of an alternative heating source through the Jackson County Housing Authority Woodstove Replacement Program Guidelines or in the absence of such a program when the head of the household can show that the family income is less than eighty percent (80%) of the median income level for the Medford metropolitan area as established by the Federal Department of Housing and Urban Development (HUD). Households that qualify for an exemption based on economic need, as defined in this Chapter, may continue to rely on a solid fuel burning device as the sole source of heat for the residence beyond two (2) years from the effective date of this ordinance.
- (3) Special Need Upon a showing of special need, as further defined by administrative rule, a temporary exemption may be granted authorizing the burning of a solid fuel burning device notwithstanding Section IV (A)(1) of this ordinance. "Special need" shall include, but not be limited to occasions when a furnace or central heating system is inoperable other than through the owner or operator's own actions or neglect.

V. [Prohibited Materials] It shall be unlawful for a person to cause or allow any of the following materials to be burned in a solid fuel burning device: garbage, treated wood, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated material, rubber products, animal remains, paint, animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or any other material which normally emits dense smoke or noxious odors.

(Adopted by the council and approved by the Mayor, March 4, 1998)

~~PHOENIX: OPEN BURNING /  
WOODSTOVES~~

~~8.12.050 Civil proceedings. The city may, instead of penal enforcement of this chapter, maintain civil proceedings in the courts of the state of Oregon against any person, persons, partnerships, association, corporation, municipal corporation, quasi-municipal corporation, or other entity, incorporated or otherwise, to enforce any requirement or prohibition of this chapter when the city seeks:~~

~~A. To enjoin continuation of a violation that has existed for ten days or more; or~~

~~B. To enjoin further commission of a violation that otherwise may result in additional violations affecting the public health or safety. (Ord. 222 §7, 1966)~~

~~8.12.060 Violation--Penalty. If any such person, persons, partnership, association, corporation, municipal corporation, quasi-municipal corporation, or other entity, incorporated or otherwise, as described in Section 8.12.030 shall fail to comply with any provision of this chapter, the person, persons, partnership, association, corporation, municipal corporation, quasi-municipal corporation, or entity, incorporated or otherwise, shall be punished upon conviction by a fine of not to exceed one hundred dollars for each violation. Each day in which any of the violations shall exist shall constitute a separate violation. (Ord. 222 §5, 1966)~~

Chapter 8.16

FIRE PREVENTION AND PROTECTION

Sections:

- 8.16.010 Uncontrolled fire--Authority to extinguish.
- 8.16.020 Uncontrolled fire--Method.
- 8.16.030 Uncontrolled fire--Cost for services.
- 8.16.040 Trash burning prohibitions.
- 8.16.050 Burn days.
- 8.16.060 Incinerator permit--Authority.
- 8.16.070 Incinerator permit--Requirements.
- 8.16.080 Dangerous fire--Prohibited.
- 8.16.090 Prohibited materials.

~~8.16.010 Uncontrolled fire--Authority to extinguish. In accord with House Bill 1689 passed by the Oregon State 1971 Legislature, the fire chief or his representative is authorized to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside the boundaries of this city and that are causing or may cause an undue jeopardy to life or property if, in the opinion of the~~

fire chief or his representative, such fire is causing or may cause an undue jeopardy to life or property. (Ord. 344 §1, 1972)

8.16.020 Uncontrolled fire--Method. In extinguishing a fire pursuant to Section 8.16.010, the fire chief or his representative may employ the same means and resources used by them to extinguish similar fires within the city. (Ord. 344 §2, 1972)

8.16.030 Uncontrolled fire--Cost for services. Whenever a fire is extinguished or attempted to be extinguished pursuant to the terms of Sections 8.16.010 and 8.16.020, the owner of the property involved in such fire shall be billed for the cost of providing such fire suppression service on forms furnished by the State Fire Marshal for such purposes. The cost of such fire suppression service shall be in accord with the State Standardized Cost Schedule which has been approved by the State Fire Marshal and which is as follows:

A. One hundred dollars for each piece of apparatus for the first hour or fraction thereof;

B. One hundred dollars for each piece of apparatus per hour following first hour broken down to the fractional portion of this charge for each fraction of an hour after the first hour;

C. Five dollars per hour per man (minimum charge: one hour) for each man responding to and performing service at the scene of the fire emergency to be billed on a fractional basis after the first hour for any fractional portions of hours of service. (Ord. 344 §3, 1972)

8.16.040 Trash burning prohibitions. All burning of trash and other materials is prohibited as follows:

A. Based upon considerations of reasonable safety of life and property, the chief of the fire department may suspend and prohibit the burning of trash and other materials for such period of time as unreasonable fire danger exists.

B. At any time that trash burning and the burning of other materials is permitted, such burning shall be allowed only in an approved incinerator for which a permit has been issued.

C. The burning of trash and other materials is totally prohibited on a nonburn day except for fire department training purposes or when reasonably necessary for safety purposes in the reasonable judgment of the fire chief of the city or his appointee.

D. Hours of burning on a burn day are as follows and burning at any other time is absolutely prohibited:

1. November through May from sunrise to sunset;
2. For the months of June, July, August, September and October, from six a.m. to ten a.m. only. (Ord. 543 §2, 1982)

8.16.050 Burn days. A burn day is any day except when any of the following exist:

- A. A reported burn index of greater than sixty-five;
- B. Ventilation index less than two hundred;
- C. Temperature greater than ninety degrees;
- D. Relative humidity less than thirty percent. (Ord. 543 §3, 1982)

8.16.060 Incinerator permit--Authority. A permit for an incinerator may be obtained from the Phoenix fire chief, the assistant chief or any captain in the fire department. (Ord. 543 §4, 1982)

8.16.070 Incinerator permit--Requirements. The requirements for obtaining a permit are:

A. The incinerator shall be heavy metal or concrete. A fourteen gauge screen of not more than one-quarter-inch mesh shall be on top of the incinerator chimney at all times during burning.

B. The ground around the incinerator must be cleared of combustible materials for a distance of ten feet in every direction. However, this distance may be shortened by the chief of the fire department if he believes that the conditions are such that a distance of less than ten feet will not create an unreasonable danger of fire or an unreasonable danger to life and property. (Ord. 543 §5, 1982)

8.16.080 Dangerous fire--Prohibited. It is unlawful for any person to build, maintain or permit to burn any fire that is an unreasonable danger to persons or property. (Ord. 543 §5, 1982)

8.16.090 Prohibited materials. It is unlawful for any person at any time to burn household garbage, plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal or vegetable waste resulting from the preparation, cooking or service of food and aerosol and pressurized cans. (Ord. 543 §6, 1982)

## Chapter 8.20

### WOODHEATING REGULATIONS

#### Sections:

- 8.20.010 Definitions.
- 8.20.020 Requirements for solid fuel heating device installation.
- 8.20.030 Solid fuel burning device emission standard.

Sections: (Continued)

- 8.20.040 Restriction of woodburning and emissions on high pollution days.  
 8.20.050 Prohibited materials.

8.20.010. Definitions. As used in this chapter:

"High pollution period" means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as DEQ) or the Jackson County Department of Health and Human Services. In the event more than one consecutive days are designated as red or yellow, they shall all be considered a part of the same period.

"Opacity" means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.

"Oregon-certified stove" means a solid fuel device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules 340-34-045 through 340-34-115.

"PM<sub>10</sub>" means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.

"Red day" means a twenty-four hour period beginning at seven a.m. when PM<sub>10</sub> levels are forecast by the DEQ or the Jackson County Department of Health and Human services to be 130 µg/m<sup>3</sup> and above.

"Residence" means a building containing one or more dwelling units used for habitation by one or more persons.

"Residential woodburning" means utilization of wood in a solid fuel heating device inside a residence.

"Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity, or propane.

"Solid fuel burning device" means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces, fireplace inserts, or woodstoves of any nature combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves, or Kachelofens.

"Space heating" means raising the interior temperature of a room.

"Yellow day" means a twenty-four hour period beginning at seven a.m. when the  $PM_{10}$  levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be  $91 \mu\text{g}/\text{m}^3$  and above but less than  $130 \mu\text{g}/\text{m}^3$ . (Ord. 794 §1, 1998)

8.20.020 Requirements for solid fuel heating device installation. The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

A. It shall be unlawful for any new or used solid fuel heating device to be installed in the city of Phoenix after the effective date of the ordinance codified in this chapter, unless:

1. The device is installed pursuant to the city building code and regulations of the department of planning and development; and

2. The solid fuel heating device complies with the Oregon Department of Environmental Quality Particulate Emission standards for certified woodstoves; and

3. For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar, or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat with other than a solid fuel heating device.

B. If the conditions set forth in this subsection are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device. (Ord. 794 §2, 1998)

8.20.030 Solid fuel burning device emission standard.

A. Within the city of Phoenix, no person owning or operating a solid fuel burning device shall at any time cause, allow, or discharge emissions from such device which are of an opacity greater than fifty percent.

B. The provisions of this subsection shall not apply to emissions during the starting or refueling of a new fire for a period not to exceed thirty minutes in any four-hour period.

C. For the purposes of this section opacity percentages shall be determined by a certified observer using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County department of health and human services that is known to produce equivalent or better accuracy. (Ord. 794 §3, 1998)



8.20.040 Restriction of woodburning and emissions on high pollution days. A. Operation of Solid Fuel Burning Device Prohibition.

1. The operation of a solid fuel burning device within the city of Phoenix during a high pollution period shall be prohibited unless an exemption has been granted pursuant to subsection B of this section. A presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of the high pollution period.

2. Notwithstanding subsection (A)(1) of this section, the operation of an Oregon Certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed thirty minutes in any four-hour period.

3. After two years from the effective date of this ordinance, no property owner within the city of Phoenix shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device, unless the landlord has a valid exemption under subsection (B)(2) of this chapter. Should a violation of this section occur it shall be attributable to the property owner and not the tenant or lessee.

B. Exemptions. It is permissible for a household to operate a solid fuel burning device within the city of Phoenix during a high pollution period when the head of that household has obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1st of each year.

1. Economic Need. An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Federal Department of Energy Low-Income Energy Assistance Program (hereinafter referred to as L.I.E.A.P.), as administered by ACCESS Inc. or its successor.

2. Sole Source. An exemption may be issued to the heads of households who sign a statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residence. Sole source exemptions shall not be issued after two years from the effective date of this ordinance, unless the residence is approved for installation of an alternative heating source through the Jackson County Housing Authority woodstove replacement program guidelines or in the absence of such a program when the head of household can show that the family income is

less than eighty percent of the median income level for the Medford metropolitan area as established by the Federal Department of Housing and Urban Development (HUD). Households that qualify for an exemption based on economic need, as defined in this chapter, may continue to rely on a solid fuel burning device as the sole source of heat for the residence beyond two years from the effective date of the ordinance codified by this chapter.

3. Special Need. Upon a showing of special need, as further defined by administrative rule, a temporary exemption may be granted authorizing the burning of a solid fuel burning device notwithstanding subsection (A)(1) of this section. "Special need" shall include, but not be limited to occasions when a furnace or central heating system is inoperable other than through the owner or operator's own actions or neglect. (Ord. 794 §4, 1998)

8.20.050 Prohibited materials. It shall be unlawful for a person to cause or allow any of the following materials to be burned in a solid fuel burning device: garbage, treated wood, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated material, rubber products, animal remains, paint, animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or any other material which normally emits dense smoke or noxious odors. (Ord. 794 §5, 1998)



ORDINANCE NO. 375

AN ORDINANCE AMENDING CHAPTER 8.08.100 OF THE JACKSONVILLE MUNICIPAL CODE AND REPEALING ORDINANCE #348;

Section 8.08.100 - Fire Season. Fire Season, as such, is hereby discontinued. Ordinance #348 is hereby repealed.

A. No person shall start or maintain any fire outside a building (except for an outdoor cooking fire and agricultural use of orchard heaters) for the purpose of burning any material, or cause or participate therein, nor shall any person in control of any premises cause or knowingly allow any such fire to be started or maintained on any part of said premises, unless:

- a. A written permit has been issued by the City Fire Chief or his designate to maintain such fire at that location; and
- b. The fire is started and maintained in accordance with the terms of the permit and the following requirements of this section.

A BURN PERMIT MAY BE ISSUED FOR THE FOLLOWING PURPOSES ONLY:

1. Controlling agricultural diseases such as blight that must be quickly destroyed by fire to prevent the spread of the disease;
2. Burning a structure or the other use of fire for training purposes by a fire department in coordination with D.E.Q.

B. No permit will be issued where burning would violate Oregon Administrative Rules governing open burning in the Rogue Basin Open Control Area.

C. Each permit shall contain a written condition in bold-face type to the effect that the permittee shall contact the Fire Chief's office before each fire is started and ascertain that outside burning is approved, under subsection (D) and (E), by the Fire Chief or his designate for that day. No permit shall be valid as to any day on which the Fire Chief or his designate has ascertained that burning is not permitted under said subsections. In addition, the Fire Chief or his designate may condition any permit issued hereunder to exclude the burning of any particular material when he finds that the burning of such material would be unduly obnoxious in the locality of the proposed burning site.

D. The Fire Chief or his designate shall not approve outside burning on any day if he determines that low humidity, high winds, drought, or other weather or other unusual conditions exist which make outside burning generally, or at the particular time and place proposed, unreasonably hazardous to the safety of persons or property. In no event shall the Fire Chief or his designate approve outside burning on a day when one or more of the following conditions exist, or in his determination will exist:

- a. Temperatures above 90 degrees Fahrenheit;
- b. Wind above 20 miles per hour; or
- c. Humidity below 30 percent.

E. The Fire Chief or his designate may approve exceptions to outside burning on any day when he determines that the ventilation index is or will be greater than 400 during that day. The ventilation index is the National Weather Service's indicator of its relative degree of air circulation for the Medford area.

F. Fires which are subject to this section shall be maintained during daylight hours and by a competent adult person and shall be extinguished prior to darkness unless continued burning is specifically authorized in writing by the Fire Chief or his designate.

G. Outside burning without a permit is hereby declared to be a public nuisance and may be summarily abated by the Fire Chief or Chief of Police or their designates.

H. Summary Abatement. The procedure provided by this Chapter is not exclusive but is in addition to procedures provided by other ordinances and for the health officer, the chief of the fire department and/or chief of police may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

I. City Pickup for Tree Prunings Only. One time during the third week of February and the third week of March, the city will offer curbside pickup for bundles of tree prunings only. Each bundle shall not exceed three (3) feet in length and sixty (60) pounds in weight, with a limit of ten (10) bundles each pickup day.

J. Violation--Infraction. A person violating any of the provisions of this chapter shall, upon conviction thereof, and shall have committed an infraction, be punished by a fine not to exceed five hundred dollars and shall pay the cost of the proceedings.

J. Violation--Separate Offense.

- a. Each day's violation of a provision of this chapter constitutes a separate offense,
- b. The abatement of a nuisance shall not constitute a penalty for violating this chapter, but shall be an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.

It is hereby declared an emergency exists and this ordinance is necessary for the health, safety and welfare of the City of Jacksonville,

and this Ordinance shall be in full force and effect immediately upon being passed by the City Council and approved by the Mayor,

21 Signed by me in open session in authentication of its passage this day of April, 1992.

MAYOR

Alvin E. Proffert  
City Recorder

JACKSONVILLE : WOODSTOVES

Chapter 8.10

WOODHEATING

Sections:

- 8.10.010 Definitions.
- 8.10.020 Requirements for Solid Fuel Heating Device Installation.
- 8.10.030 Solid Fuel Burning Device Emission Standard.
- 8.10.040 Restriction of Woodburning and Emissions on High Pollution Days.
- 8.10.050 Exemption Application
- 8.10.060 Prohibited Materials

8.10.010 Definitions.

1. **High pollution period:** means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as DEQ) or the Jackson County Department of Health and Human Services. In the event more than one consecutive days are designated as red or yellow, they shall be considered a part of the same period.
2. **Opacity:** means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.
3. **Oregon certified stove:** means a solid fuel burning device certified by DEQ as meeting the emission performance standards specified in Oregon Administrative Rules 340-34-045 through 340-34-115.
4. **PM<sub>10</sub>:** means airborne particles ranging from .01 to 10 microns in size, the breathing of which can be harmful to the human respiratory system.
5. **Red day:** means a 24 hour period beginning at 7:00 a.m. when PM<sub>10</sub> levels are forecast by the DEQ or the Jackson County Department of Health and Human services to be 130 ug/m<sup>3</sup> and above.
6. **Residence:** means a building containing one or more dwelling units used for habitation by one or more persons.
7. **Residential Woodburning:** means utilization of wood in a solid fuel heating device inside a residence.
8. **Sole source of heat:** means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning

device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity, or propane.

9. **Solid fuel burning device:** means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, with limitation, solid fuel burning stoves, fireplaces, fireplace inserts, or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ-approved pellet stoves, or Kachelofens.

10. **Space Heating:** means raising the interior temperature of a room.

11. **Yellow day:** means a 24 hour period beginning at 7:00 a.m. when the PM<sub>10</sub> levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be 91 ug/m<sup>3</sup> and above but less than 130 ug/m<sup>3</sup>.

**8.10.020 Requirements for Solid Fuel Heating Device Installation.** The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

(A) It shall be unlawful for any new or used solid fuel heating device to be installed in the City of Jacksonville after the effective date of this Ordinance, unless:

(1) The device is installed pursuant to the City Building Code and regulations of the Department of Planning and Development; and

(2) The solid fuel heating device complies with the Oregon Department of Environmental Quality Particulate Emission standards for certified woodstoves; and

(3) For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar, or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel heating device.

(B) If the conditions set forth in this subsection are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device.

**8.10.030 Solid Fuel Burning Device Emission Standard.** (A) Within the City of Jacksonville, no person owning or operating a solid fuel burning device shall at any time cause, allow, or discharge emissions from such device which are of an opacity greater than fifty (50) percent.

(B) The provisions of this subsection shall not apply to emissions during the starting or refueling of a new fire for a period to exceed 30 minutes in any four-hour period.



(C) For the purposes of this section opacity percentages shall be determined by a certified observer using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County Department of Health and Human Services that is known to produce equivalent or better accuracy.

8.10.040 Restriction of Woodburning and Emissions on High Pollution Days.

(A) Operation of Solid Fuel Burning Device Prohibition:

(1) The operation of a solid fuel burning device within the City of Jacksonville during a high pollution period shall be prohibited unless an exemption has been granted pursuant to Section 8.10.040 (B) of this Chapter. A presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of the high pollution period.

(2) Notwithstanding subsection (A)(1) of this section, the operation of an Oregon Certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed 30 minutes in any four-hour period.

(3) After two years from the effective date of this ordinance, no property owner within the City of Jacksonville shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device, unless the landlord has a valid exemption under Section 8.10.040(B)(2) of this Chapter. Should a violation of this section occur, it shall be attributable to the property owner and not to the tenant or lessee.

(B) Exemptions: It is permissible for a household to operate a solid fuel burning device within the City of Jacksonville during a high pollution period when the head of that household has obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1 of each year.

(1) Economic Need: An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show their eligibility for energy assistance under the Federal Department of Energy Low-income Energy Assistance Program (hereinafter referred to as L.I.E.A.P.), as administered by ACCESS, Inc. or its successor.

(2) Sole Source: An exemption may be issued to the heads of households who sign a statement declaring their reliance on a solid fuel burning device as the sole source of heat for their residence. Sole source exemptions shall not be issued after two years from the effective date of this ordinance, unless the residence is approved for installation of an alternative heating source through the Jackson County Housing Authority woodstove replacement program guidelines or in the absence of such a program when the head of the household can show that the family income is less than 80% of the median income level for the Medford metropolitan area as established by the Federal Department of

Housing and Urban Development (HUD). Households that qualify for an exemption based on economic need, as defined in this Chapter, may continue to rely on a solid fuel burning device as the sole source of heat for the residence beyond two years from the effective date of this ordinance.

(3) Special Need: Upon a showing of special need, as further defined by administrative rule, a temporary exemption may be granted authorizing the burning of a solid fuel burning device notwithstanding Section 8.10.040(A)(1) of this ordinance. "Special need" shall include, but not be limited to, occasions when a furnace or central heating system is inoperable other than through the owner or operator's own actions or neglect.

**8.10.050 Exemption Application.** The head of household shall obtain an applicable exemption application form from the Jacksonville City Offices, 110 E. Main Street, Jacksonville, OR. The exemption application form shall be completed and signed by the agency as indicated on the form. These completed forms shall be returned to the Jacksonville City Administrator, or his designee, for final approval. Said forms shall be filed in the City Offices. There shall be no City fees for applying for an exemption.

For administrative clarification, the City will use the policies developed in the Jackson County Woodsmoke Manual.

**8.10.060 Prohibited Materials.** It shall be unlawful for a person to cause or allow any of the following materials to be burned in a solid fuel burning device: garbage, treated wood, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated material, rubber products, animal remains, paint, animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or any other material which normally emits dense smoke or noxious odors.

SPECIAL EXEMPTION AFFIDAVIT

CITY OF JACKSONVILLE WOODSMOKE PROGRAM

This application is for an exemption from the City of Jacksonville woodsmoke curtailment program during high pollution periods (yellow and red days).

Medical Reason:

I hereby affirm that I am the head of household located at (street address):

\_\_\_\_\_ and that, due to medical reasons, a person residing full-time at my residence *requires* woodheat instead of an alternate heating source.

Nature of medical condition: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Physician's name, address & phone: \_\_\_\_\_

Doctor's signature or official stamp \_\_\_\_\_

Name of Applicant (Print Please) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

I certify that the information stated above is true and accurate and that making false statements which may provide me with an exemption for which I am not entitled is unlawful and punishable under City ordinance. I hereby consent to the release of this information for investigation to confirm the above information.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*for office use\*\*\*\*\*

Signature of Staff \_\_\_\_\_ Date \_\_\_\_\_

Return form to: City of Jacksonville, 110 E. Main St., Jacksonville, OR 97530  
Phone: 899-1231

SPECIAL EXEMPTION AFFIDAVIT

CITY OF JACKSONVILLE WOODSMOKE PROGRAM

This application is for an exemption from the City of Jacksonville woodsmoke curtailment program during high pollution periods (yellow and red days).

Alternate Heating Source is Inoperable:

I hereby affirm that I am the head of household located at (street address):

\_\_\_\_\_ and, that the alternate heating source at this residence is inoperable other than through my own actions. I understand this exemption *expires in 30 days*.

Nature condition: \_\_\_\_\_

Type of evidence attached (receipt, work order, etc. \_\_\_\_\_

Owner or Renter \_\_\_\_\_ If renter, Owner's name and address \_\_\_\_\_

Name of Applicant (Print Please) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

I certify that the information stated above is true and accurate and that making false statements which may provide me with an exemption for which I am not entitled is unlawful and punishable under City ordinance. I hereby consent to the release of this information for investigation to confirm the above information.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*for office use\*\*\*\*\*

Signature of Staff \_\_\_\_\_ Date \_\_\_\_\_

Return form to: City of Jacksonville, 110 E. Main St., Jacksonville, OR 97530  
Phone: 899-1231

TEMPORARY ECONOMIC NEED EXEMPTION AFFIDAVIT

CITY OF JACKSONVILLE WOODSMOKE PROGRAM

This application is for a TEMPORARY exemption from the City of Jacksonville woodsmoke curtailment program during high pollution periods (yellow and red days). The acceptance of this application is based upon the applicant:

1. Meeting the income guidelines attached to this form.
2. Contacting ACCESS at 779-9020 for a qualification interview.
3. Attending the qualification interview conducted by ACCESS.

ACCESS will notify the City Administrator's office if you meet their guidelines. If you do not qualify for their income guidelines, this temporary exemption will end. You must then follow the red, yellow, and green advisory, and cannot burn your woodstove (or fireplace) unless it is DEQ certified and you can burn it without producing smoke (except for start-up and refueling) on yellow and red days.

I hereby affirm that I am the head of household located at (street address):

\_\_\_\_\_ and, that my household gross income falls within the Low Income Energy Assistance Program (L.I.E.A.P.) guidelines attached to this application.

Name of Head of Household \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Name of Applicant (Print Please) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*for office use\*\*\*\*\*

Signature of Staff \_\_\_\_\_ Date \_\_\_\_\_

Return form to: City of Jacksonville, 110 E. Main St., Jacksonville, OR 97530  
Phone: 899-1231

RELEVANT INCOME LEVELS FOR  
EXEMPTION FROM WOODSTOVE ORDINANCE

Size of Family Unit	Income Levels for Economic Need Exemption (L.I.E.A.P.)	
	Monthly	Yearly
1	\$709.38	\$8,512.50
2	957.29	11,487.50
3	1,205.21	14,462.50
4	1,453.13	17,437.50
5	1,701.04	20,412.50
6	1,948.96	23,387.50
7	2,196.88	26,362.50
8	2,444.79	29,337.50
For each additional person	\$247.92	\$2,975.00

Effective - February, 1992.

: sda  
1080.92



# EAGLE POINT: OPEN BURNING

8.08.100

## 8.08.100 Establishment of fire lines.

The fire chief or, in his or her absence, the chief of police shall have the authority to establish fire lines. It shall be unlawful for any unauthorized person, except the owner, lessee, or someone having some property rights or interest in the burning property or other property imperiled thereby, to enter the fire limits fixed by such lines. (Ord. 7-7 § 4, 1990)

### Article III. Preventing and Abating Fire Hazards

## 8.08.110 Disposal of ashes.

It shall be unlawful for any person or persons to deposit any ashes or cause them to be deposited or permit or suffer the ashes to remain in any wooden vessel or other combustible receptacle. Ashes shall be placed in some safe depository or galvanized iron or other incombustible material not less than twelve (12) inches from any wooden wall, wooden fence, or other woodwork, and not less than twenty (20) feet from any wooden structure or building. (Ord. 7-7 § 5, 1990)

## 8.08.120 Disposal of combustible waste materials.

Any person using or having charge of or control over any shavings, hay, straw, litter, or other combustible waste material fragments shall cause them to be securely deposited or removed so as to be safe from fire. All receptacles for waste, rags, paper, and other substances liable to spontaneous combustion must be made of incombustible material. (Ord. 7-7 § 6, 1990)

## 8.08.130 Combustible material on roofs prohibited.

It shall be unlawful for any person to allow or permit to remain upon roofs in the city any accumulation of paper, hay moss, or other inflammable or combustible material. (Ord. 7-7 § 7, 1990)

## 8.08.140 Fires on public streets, alleys or highways prohibited.

It shall be unlawful for any person to kindle any fire or cause a fire to be kindled upon public streets, alleys, or highways within the city. This section shall not prohibit fires necessary for the heating of pitch or tar for roofing authorized buildings or street construction or repairs. (Ord. 7-7 § 8, 1990)

## 8.08.150 Accumulation of inflammable refuse or rubbish on premises prohibited.

It shall be unlawful for any person within the city to accumulate, to permit to accumulate, to deposit, or to cause to be deposited on any premises within the city any accumulation of inflammable refuse or rubbish in amount or quantity sufficient to constitute a fire hazard. (Ord. 7-7 § 9 (part), 1990)

### Article IV. Open Burning

## 8.08.160 Outside burning of refuse or rubbish.

It shall be unlawful for any person within the city to engage in any outside burning of refuse or rubbish unless:

A. A written permit has been issued by the fire chief or designee to maintain such fire at that location and date; and

Jan '02



B. The fire is started and maintained in accordance with the terms of the permit and this chapter. (Editorially amended during 2000 codification; Ord. 7-7 § 10, 1990)

#### 8.08.170 Open burning restricted.

A. No permit will be issued under any circumstances for outside burning during December or January. The purpose of this section is to minimize the accumulation of PM 10 air pollution resulting from open burning. The public should be aware that open burning may also be restricted during the fire season (typically June through October) by the fire districts or other fire regulating authorities.

B. Burn barrels, trash incinerators or similar devices and their locations shall be approved by the fire chief or designee prior to the issuance of a permit.

C. The fire chief or designee shall not approve outside burning on any day when it is determined that the ventilation index is less than DEQ recommendations during the day. (Ord. 7-7 § 11, 1990)

#### 8.08.180 Purposes for open burning permit.

A permit may be issued only for the following purposes:

A. Controlling agricultural diseases such as blight that must be quickly destroyed by fire to prevent the spread of the disease;

B. Burning contaminated pesticide containers as prescribed by DEQ and manufacturer specifications;

C. Burning beehives and beekeeping paraphernalia to eradicate the spread of disease;

D. Burning a structure or the other use of fire for training purposes by a fire department in coordination with DEQ;

E. Field burning in agricultural areas;

F. The burning of vegetative material by the public-at-large from February 1st to beginning of fire season and from end of fire season to November 30th of each year, subject to all terms and conditions of the permit and the terms and conditions of the ordinance codified in this article.

G. The fire chief or designee may condition any permit issued hereunder to exclude the burning of any particular material upon a finding by the fire chief or designee that the burning of such material would be unduly obnoxious in the locality of the proposed burning site.

H. Open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking or service of food or of any other material which normally emits dense smoke or noxious odors is prohibited throughout the city of Eagle Point. (Ord. 7-7 § 12, 1990)

#### 8.08.190 Times when open burning fire allowed.

Fires which are the subject of this article shall be maintained during daylight hours only, and by a competent adult person, and shall be extinguished prior to darkness unless continued burning is specifically authorized in writing by the fire chief or designee. Additionally, the fire chief or designee, as a permit condition, may restrict fires to limited daylight hours which shall be specified on the permit. (Ord. 7-7 § 13, 1990)

**8.08.200 Public nuisance.**

Burning without a permit as prescribed by this article, or in violation of the terms of any permit, or any other act in violation of the ordinance codified in this article is declared to be a public nuisance and may be summarily abated by the fire chief or designee or the police department. (Ord. 7-7 § 14, 1990)

**8.08.210 Discarding lighted tobacco products prohibited—  
Warning signs required.**

It shall be unlawful for any persons to throw away any lighted cigar, cigarette, or other tobacco within any sawmill, box factory, lumber yard, or any part of any public street within one hundred (100) feet of such sawmill, box factory, or lumber yard; warning signs shall be posted in conspicuous places in every sawmill, box factory, or lumber yard and along any street, sidewalk, or alley within one hundred (100) feet of such place. Such signs shall be erected by the owners of such sawmill, box factory, or lumber yard at their sole expense. (Ord. 7-7 § 15, 1990)

**8.08.220 Notice to shut off water systems.**

Upon notice of the fire chief or chief of police all consumers and users of water connected with the water systems now in use or hereafter installed in the city shall shut off all private systems, hydrants or appliances on their premises immediately. (Ord. 7-7 § 16, 1990)

**8.08.230 Written notification that premises is a fire hazard.**

The fire chief, or designee, the chief of police or any other police officer in the city of Eagle Point shall, upon determining that a fire

hazard exists as described in this article, notify the owner, occupant, agent, or other person in charge of property upon which such fire hazard exists. Such notice shall be delivered personally in writing or by registered mail to the last known address of such person and shall state specifically the condition which has caused the fire hazard. Such fire hazard shall be removed within twenty-four (24) hours after delivery of such notice. If removal is not completed within a reasonable time, the fire chief, his or her designee, the chief of police, or other police officer shall cause such fire hazard to be removed and the cost thereof shall become a lien upon the property on which the fire hazard exists or to which it is adjacent, in the same manner as other liens under the laws of the state of Oregon and the Charter of the city of Eagle Point. (Ord. 7-7 § 17, 1990)

**8.08.240 Liens.**

Any owner or occupant of any tract, piece, or parcel of land against which a lien has been entered under the provisions of this article who shall for any reason desire to dispute the lien, may file his or her protest with the city recorder and municipal judge within ten (10) days from the date of such docketing, which protest shall set forth the grounds for such protest. The protest shall be heard speedily and summarily, and the lien docketed as previously stated shall be confirmed, modified, or vacated, as may be warranted by the facts, or, if confirmed, the lien may thereafter be enforced by notice issued by the city recorder and municipal judge to the chief of police to sell said premises upon published notice of such proceeding as is otherwise required on sale of real property for the satisfaction of city liens. (Ord. 7-7 § 18, 1990)



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**CHAPTER 406**  
**KLAMATH COUNTY CLEAN AIR ORDINANCE**

**406.001 Policy and Purpose.** To control and address air quality problems and identify the Air Quality Zone, so that Klamath County will have clean air for the benefit of its citizens' health and welfare; to be in compliance with requirements of the Federal Clean Air Act of 1990 and applicable revisions or updates, and not exceed the National Ambient Air Quality Standard for particulate matter; and to improve economic development opportunities.

**406.005 Definitions.** Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter.

(1) AIR QUALITY ADVISORY - A means, declared and provided by the Klamath County Environmental Health Division based on the Air Quality Forecast, to inform area residents of what the air quality is or potentially will be. The advisories shall be:

(a) Red Advisory Period - A period of time when an Air Quality Forecast predicts that particulate matter concentrations have the potential to exceed or are exceeding an estimate of 150  $\mu\text{g}/\text{m}^3$  of PM-10 or 30  $\mu\text{g}/\text{m}^3$  for PM-2.5 for a 24-hour average. Such pollution concentrations have a high probability of being unhealthy.

(b) Yellow Advisory Period - A period of time when the Air Quality Forecast predicts that particulate matter concentrations are less than what would be considered for the Red Advisory Period, but would likely exceed estimates of 80  $\mu\text{g}/\text{m}^3$  of PM-10 or 16  $\mu\text{g}/\text{m}^3$  of PM-2.5 for a 24-hour average. Such pollution concentrations have a high probability of impacting public health.

(c) Green Advisory Period - A period of time when an Air Quality Forecast predicts daily particulate matter concentrations for a 24-hour average will not exceed 80  $\mu\text{g}/\text{m}^3$  of PM-10; or 16  $\mu\text{g}/\text{m}^3$  of PM-2.5.

(2) AIR QUALITY FORECAST - A method of using available data including, but not limited to, local weather conditions, current and anticipated particulate levels, and weather forecasts to determine the PM-10 and PM-2.5 particulate matter concentrations.

(3) AIR QUALITY INSPECTOR - Air Quality Inspectors may be staff of the Klamath County Environmental Health Division, the Klamath County Code Compliance Office, the Code

Enforcement Office of the City of Klamath Falls, or the County Fire Districts who will act within their scope of authority. The primary role of an Air Quality Inspector is to observe and document violations of Chapter 406 and to educate the public with respect to this Chapter and the documented violation.

(4) AIR QUALITY ZONE - An area within the County as depicted on the map and legal description in Exhibit A.

(5) AGRICULTURAL OPERATION - An activity including an irrigation operation on land currently used, or intended to be used primarily for the purpose of obtaining a profit by raising, harvesting and selling crops, or by raising and selling livestock and/or poultry, or the products thereof. Agricultural operation also means activities conducted by not-for-profit agricultural research organizations, which activities are necessary to serve that purpose. It does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.

(6) BUILDING - All residential or commercial structures including manufactured homes.

(7) BURN-DOWN TIME - A period of time allowed for fires in solid fuel-fired appliances and open/outdoor burning, to die down prior to the beginning of enforcement activities. Such burn-down time applies to Red or Yellow Advisory Period.

(8) CERTIFICATE OF EXEMPTION - A written approval issued by the Klamath County Environmental Health Division to use a solid fuel-fired appliance or open outdoor burning in a manner normally in violation of the requirements of this Chapter.

(9) CERTIFICATE OF VARIANCE - A written approval issued to a person by the Klamath County Environmental Health Division to open or outdoor burn in a manner normally in violation of the requirements of this Chapter.

(10) CERTIFIED WOODSTOVE OR FIREPLACE INSERT - A solid fuel-fired space heating appliance that has been certified by the Oregon Department of Environmental Quality (DEQ) or bears an Environmental Protection Agency certification label indicating that the model is built in accordance with EPA emission certification.

(11) COOK STOVE - A wood burning stove installed in the kitchen, which is primarily designed for cooking and has a stovetop and an oven. It may also be equipped with gas burners or electric heat elements.

(12) EXEMPT SOLID-FUEL FIRED APPLIANCE - A solid fuel-fired appliance that is exempt from the Oregon Department of Environmental Quality (DEQ) or the United States Environmental Protection Agency (EPA) requirements for certification for its installation. Exempt stoves are pellet stoves, antique stoves (built before 1940 with ornate construction and a substantially higher current market value), open masonry fireplaces, cook stoves, or other stoves that have a valid letter of exemption from DEQ, or do not meet the definition of a "woodstove" or "wood heater" as defined in DEQ's Oregon Administrative Rules for Residential Wood Heating.

(13) FIRE DEPARTMENT - The unit of municipal government or county approved Local Fire District having the authority and responsibility to extinguish unintended fires and to promote fire safety.

(14) FIREPLACE - A framed opening made in a chimney to hold an open fire. Also known as an open fireplace or structurally integrated fireplace which could be made of metal or masonry construction.

(15) FIREPLACE ASTM STANDARDS - All fireplaces that meet the ASTM international standard test method E2558, and meet 5.1 grams per kilogram specifications, or current federal EPA NSPS standards for structurally integrated fireplaces, whichever is less.

(16) KLAMATH COUNTY AIR QUALITY ADVISORY COMMITTEE - A volunteer committee appointed by the Klamath County Board of Commissioners. The purpose of the Air Quality Advisory Committee is to evaluate relevant air quality data, identify significant contributing emission sources, recommend appropriate emission reduction strategies and recommend action to the Board of County Commissioners.

(17) LOW INCOME PERSON - A person or family who demonstrates economic need by certifying through proof that their total household income is less than the very low-income guidelines established by the United States Department of Housing and Urban Development.

(18) NON-CERTIFIED WOOD STOVE OR FIREPLACE INSERT - A solid fuel-fired residential space heating device that has not been certified by either the Oregon Department of Environmental Quality or the Environmental Protection Agency (EPA) as complying with smoke emission standards. "Non-certified wood stove or fireplace insert" does not include fireplaces, nor devices exempt from certification requirements as defined in Section 406.005(13).

(19) NOTICE OF NONCOMPLIANCE - A letter notifying a violator of this Chapter of the specific violation and the corrective action necessary.

(20) NONATTAINMENT AREA - The federally designated area within the County that is depicted on the map and legal description in Exhibit A. Normally thought of as synonymous with the Air Quality Zone unless contingency measures are implemented.

(21) OPEN/OUTDOOR BURNING - This section refers to all open or outdoor fires intended for heating or the combustion of waste, and those included in the definition of "Open Burning" in Oregon Administrative Rule Chapter 340 Division 264. Outdoor cooking fires are not included.

(22) PARTICULATE MATTER TEN MICRONS AND LESS (PM-10) - Airborne particulate matter with an aerodynamic diameter of ten (10) microns in size or less. PM-10 is normally measured by weight per unit volume of air in micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). The National Ambient Air Quality Standard is 150  $\mu\text{g}/\text{m}^3$  for a 24-hour period beginning at 12:01 AM.

(23) PARTICULATE MATTER TWO AND ONE-HALF MICRONS OR LESS (PM-2.5) - Airborne particulate matter with an aerodynamic diameter of two-point-five (2.5) microns in size or less. PM-2.5 is normally measured by weight per unit volume of air in micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). The National Ambient Air Quality Standards are 35  $\mu\text{g}/\text{m}^3$  for a 24-hour period beginning at 12:01 AM, with a 15  $\mu\text{g}/\text{m}^3$  annual average.

(24) PELLET STOVE - A wood burning heating appliance which uses wood pellets as its primary source of fuel.

(25) PERSON - Any individual, partnership, corporation, company or other association.

(26) PROHIBITED MATERIALS - Any combustible material as defined by the State's prohibited materials open burning rule which include wet garbage, plastic, wire insulation, automobile parts, asphalt, petroleum product, petroleum treated material, rubber products, or animal or vegetable matter resulting from the handling, preparation, cooking or service of food that normally results in dense or noxious smoke when burned. Also included are coal and any open burned materials that cause a public or private nuisance or a hazard to public safety.

(27) RESPONSIBLE PERSON - A person eighteen (18) years of age or older, authorized by the property owner to attend an open burning event and who is capable of and has the necessary equipment to extinguish the fire.



(28) SALE OF REAL PROPERTY - Any transaction whereby the ownership of a building as defined by the Klamath County Development Code, or the real property upon which a building is located, is transferred by an agreement for the sale and purchase of the building or the real property.

(29) SOLE SOURCE OF HEAT - One or more residential solid fuel-fired appliances that constitute the only source of space heat in a private residence. No residential solid fuel-fired appliance or devices shall be considered to be the sole source of heat if the private residence is equipped with a permanently installed working system such as: oil, natural gas, electric, geothermal, solar or propane heating system, whether connected or disconnected from its source.

(30) SOLID FUEL-FIRED APPLIANCE - A device designed for solid fuel combustion, including cordwood stoves (wood stoves and fireplace stove inserts), fireplaces, solid fuel-fired cook stoves and combination fuel furnaces or boilers, which burn solid fuels.

(31) URBAN GROWTH BOUNDARY (UGB) - An area of the county surrounding and including the City of Klamath Falls which has been designated by the Klamath County Board of Commissioners and the City of Klamath Falls as an area of potential growth which may impact both governmental bodies.

(32) WASTE

(a) Agricultural Waste - Any waste materials generated or used by an agricultural operation.

(b) Commercial Waste - Waste Materials from offices, warehouses, restaurants, mobile home parks, dwellings (apartments) containing more than four (4) family units, hotels, motels, schools, or wholesale or retail yards.

(c) Construction Waste - Any waste material produced by a building or construction project. Examples of construction waste are wood, lumber, paper, wood pallets, crating and packing materials used during construction, materials left after completion of construction and materials collected during cleanup of a construction site.

(d) Demolition Waste - Any material produced by the complete or partial destruction, or tearing down, of any man-made structure the clearing of any site for land improvement; or cleanup such as the removal of trees, brush or stumps, excluding agricultural waste, Section 406.005(31)(a), or domestic waste, Section 406.005(31)(e).

(e) Domestic Waste - Household materials including paper, cardboard, clothing, yard debris, Section 406.005(31)(h), or other material generated in or around a dwelling of four (4) or less family units, or on the real property adjacent to the dwelling. Once domestic waste is removed from the property of origin it becomes commercial waste.

(f) Forest Slash - Forest debris or woody vegetation related to the management of forestlands, used for the growing and harvesting of timber.

(g) Industrial Waste - Any materials (including process wastes) produced as a direct result of any manufacturing or industrial process.

(h) Yard Debris - Wood, needle or leaf material from trees, shrubs, or plants on real property adjacent to a dwelling of not more than four (4) family dwelling units. Once yard debris is removed from the property of origin, it becomes commercial waste, Section 406.005(31)(b).

(33) WOODSTOVE/WOODHEATER - An enclosed, wood burning appliance capable of and intended for space heating or domestic water heating that meets all of the following:

(a) An air-to-fuel ratio in combustion chamber averaging less than 35-1 as determined by the test procedure prescribed in federal regulations, 40 CFR Part 60, Subpart AAA, Section 60.534 performed at an accredited laboratory;

(b) A usable firebox volume of less than 20 cubic feet;

(c) A minimum burn rate less than 5 kg/hr as determined by the test procedure prescribed in federal regulation, 40 CFR, Part 60, Subpart AAA, Section 60.534 performed at an accredited laboratory; and

(d) A maximum weight of 800 kg (1,760 lb). In determining the weight of an appliance for these purposes, fixtures and devices that are normally sold separately, such as flue pipe, chimney, heat distribution ducting, and masonry components that are not an integral part of the appliance or heat distribution ducting, shall not be included.

**406.100 County Wide Air Quality Pollution Control Requirements.**

(1) AIR QUALITY ADVISORIES - The Klamath County Environmental Health Division shall determine and issue Air

Quality Advisories at least daily during the winter heating season and at other times of the year as needed according to the definitions provided in Section 406.005(1). Air Quality Advisories will be provided to the public.

(2) PUBLIC RESPONSIBILITIES - Each person that burns outdoors or in a solid fuel-fired-appliance in Klamath County is required to comply with the requirements of this Chapter.

(3) SOLID FUEL-FIRED APPLIANCES

(a) Appliance Resale and Installation:

(i) The resale or installation of a non-certified solid fuel-fired appliance or any appliance not meeting the requirements of Section 406.005(33) is prohibited.

(ii) The resale, or installation of an exempt solid fuel-fired appliance, is allowed in accordance with state and local requirements.

(iii) A Klamath County Building Division permit is required for the installation of a solid fuel-fired appliance.

(b) Disclosure of Solid Fuel-Fired Appliances upon the Sale of Real Property - The presence of all solid fuel-fired appliances including wood stoves, fireplace inserts, fireplaces, and pellet stoves in the building shall be disclosed by the seller to the buyer as part of the sale and purchase of any building. The disclosure shall state whether any solid fuel-fired appliances are certified, non-certified, exempt or pellet.

(c) Removal of Non-Certified Woodstoves and Fireplace Inserts upon the Sale of Real Property - Non-certified wood stoves and fireplace inserts must be removed from building upon sale of any building containing them. The removal shall be accomplished prior to the closing of any real estate transaction involving the building containing the non-certified wood stove(s) or fireplace insert(s).

(d) Sole Heating Source - It shall be unlawful for a solid fuel-fired appliance to be the sole source of heat in any non-owner (tenant) occupied dwelling unit within Klamath County.

(e) Solid Fuel-fired Appliance Fuel - Only dry, seasoned cordwood, pressed sawdust logs, organic charcoal or

pellets specifically manufactured for the appliance may be burned in a solid fuel-fired appliance.

- (f) Any newly constructed fireplaces must comply with fireplaces ASTM standards. Any retrofitted fireplace must meet fireplace ASTM standards.
  - (g) Prohibited Materials - Prohibited materials as defined in Section 406.005(25) and Oregon Administrative Rule 340-264-0060(3), shall not be burned in fireplaces, solid fuel-fired appliances, pellet stoves or cook stoves within Klamath County. An exception is the burning of re-refined used oil in an approved oil-burning device.
- (4) OPEN/OUTDOOR BURNING REQUIREMENTS - This section pertains to burning as defined in Section 406.005(20).
- (a) All open burning is prohibited during Red or Yellow Advisory Periods within Klamath County unless a Certificate of Variance has been issued by the Klamath County Environmental Health Division in accordance with Section 406.250.
  - (b) Open Burning Hours:
    - (i) Open burning fires are not to be started until one hour after sunrise and must be completely out one hour before sunset, unless otherwise directed by the local fire department.
    - (ii) Burning conducted for forest or ecosystem management, for example slash fires, are not required to be out by sunset.
  - (c) Local Fire Permit Required - Persons burning, shall adhere to all municipal, local Fire Department, State Fire Marshal or Oregon Department of Forestry or DEQ rules, ordinances, or restrictions.
  - (d) Responsible Person:
    - (i) A responsible person, as defined in Section 406.005(26), must constantly attend all open burning.
    - (ii) This person must also completely extinguish the fire before leaving it.
  - (e) Prohibited Materials - Burning of Prohibited materials as defined in Section 406.005(25) and Oregon Administrative Rule 340-264-0060(3), in outdoor or open fires is prohibited.

**406.150 Air Quality Pollution Requirements Applying Within the Air Quality Zone.** In addition to the requirements in Section 406.100 the following requirements apply:

- (1) **SOLID FUEL-FIRED APPLIANCES** - This section applies to the use of solid fuel-fired appliances for residential and commercial heating **within the Air Quality Zone.**
  - (a) During a Red Advisory Period, no person shall operate any solid fuel-fired appliance except a pellet stove.
  - (b) During a Yellow Advisory Period, no person shall operate an non-certified wood stove, non-certified wood stove insert, or fireplace. Only certified solid fuel-fired appliances and pellet stoves may be operated.
  - (c) During a Green Advisory Period, non-certified wood stoves, non-certified wood stove inserts, fireplaces, certified wood stoves, certified wood stove inserts and pellet stoves may be used for indoor heating.
  - (d) **Visible Air Contaminant Emissions.** No person operating a solid fuel-fired appliance within the Air Quality Zone shall allow smoke of an opacity of greater than 20%, or comparable to that described in the Ringelmann Smoke Chart (Exhibit B), to be vented to the atmosphere for more than three (3) minutes in any one (1) hour period. Emissions created during a ten (10) minute start-up period are exempt.
  - (e) **Burn-down time.** A Burn-down time, not to exceed three (3) hours, will be given on Red or Yellow Advisory Periods. No enforcement action described in Section 406.300 will take place for visible air contaminant emissions emitted during the burn-down time.
  - (f) **Emergency Conditions.** An exemption to Section 406.150 may be issued by the Klamath County Environmental Health Division to allow the use of normally prohibited solid fuel-burning appliances within the Air Quality Zone, during periods when:
    - (i) utility suppliers declare energy shortages;
    - (ii) electric power or outages occur;
    - (iii) interruptions occur of natural gas supplies; or
    - (iv) temporary failure occurs of a resident's heating system when there is an immediate need to operate a solid fuel space-heating device to protect family/individual health and welfare.

(2) OPEN BURNING - Except as specified in this section or allowed by Section 406.250, open burning is prohibited within the Air Quality Zone.

(a) Open Burning Window: The Klamath County Environmental Health Division Manager, in consultation with the Board of County Commissioners, the City of Klamath Falls Code Compliance Officer and Fire Districts No. 1 and No. 4 may declare two specific fifteen (15) day periods a year during which times the open burning of residential yard debris, as defined in Section 406.005(32)(h), will be allowed within the Air Quality Zone. Open Burning Windows within the Air Quality Zone will occur in Spring and Fall. Each window will include three (3) weekends.

(i) During the Open Burning Window, the Klamath County Environmental Health Division may temporarily prohibit open burning should poor ventilation episodes occur, or be forecast.

(ii) The Klamath County Environmental Health Division Manager in consultation with the Board of County Commissioners, the City of Klamath Falls Code Compliance Officer, and Fire Districts No. 1 and No. 4 may extend the Open Burning Window one day for every day in which open burning has been prohibited during the Open Burning Window due to poor ventilation or weather conditions.

(b) All agricultural open burning is prohibited at all times in the Air Quality Zone unless unless issued a variance in accordance with Section 406.250.

(c) The use of burn barrels and other outdoor burning devices is prohibited.

(d) A Certificate of Variance, as defined in Section 406.250(1), to allow Open Burning outside the Spring or Fall Open Burning Windows, may be issued on a case by case basis within the Air Quality Zone when an emergency, or substantial need, is documented.

#### **406.200 Certificates of Exemption.**

(1) ISSUANCE - The Klamath County Environmental Health Division Manager or designee may issue a Certificate of Exemption to allow the use of solid fuel-fired appliances within the Air Quality Zone for residential space heating purposes during Red, ~~or~~ Yellow **or Green** Advisory Periods.

(a) All applications for Certificates of Exemption shall be on forms provided by the Klamath County Environmental Health Division.

- (b) Within five (5) working days of receiving a completed application, the Klamath County Environmental Health Division shall review and: 1) approve the application; 2) approve the application with conditions; or 3) deny the application.
  - (c) Klamath County Environmental Health Division shall not charge a fee for processing an application or issuing a Certificate of Exemption.
  - (d) All Certificates of Exemption expire on May 15 of each year.
  - (e) Applying for the renewal of all Certificates of Exemption is the responsibility of the registrant.
- (2) **LOW INCOME EXEMPTION** - A low-income person, either tenant or owner, after submitting adequate documentation, may be granted a Certificate of Exemption to use a solid fuel-fired appliance, for residential heating, during Red and Yellow Advisory Periods.

**406.250 Certificates of Variance.** Certificates of Variance issued by Klamath County Environmental Health Division are required for all Open Burning not conforming to the requirements of Section 406.100(4) and Section 406.150(2).

- (1) **CERTIFICATE OF VARIANCE.**
  - (a) All applications for Certificates of Variance shall be on forms provided by the Klamath County Environmental Health Division and submitted at least five (5) working days prior to the proposed or desired starting date of the variance.
  - (b) Within five(5) working days of receiving a completed application, the Klamath County Environmental Health Division shall review and: 1) approve the application; 2) approve the application with conditions; or 3) deny the application.
  - (c) Klamath County Environmental Health Division shall not charge a fee for processing an application or issuing a Certificate of Variance.
  - (d) Inside the Air Quality Zone, Klamath County Fire Districts No.1 and No.4, the City of Klamath Falls, and the Klamath County Environmental Health Division may develop an interagency agreement to expedite the processing of applications.
  - (e) The Klamath County Environmental Health Division Manager, or designate, may issue a Certificate of

Variance for an area of the county when the meteorological conditions are expected to be different from those forecast for other parts of the county.

~~406.300 Enforcement.~~

~~(1) Klamath County Environmental Health Division Staff will monitor and enforce compliance with this Chapter countywide. Minor violations of this Chapter will result in a Notice of Noncompliance being sent to the violator. Repeated or major violations will result in the issuance of a Citation and Summons to the violator to appear in court.~~

~~(2) When a Klamath County Air Quality Inspector has observed a violation of this Chapter, he or she shall transmit this information, along with the documentation, to the Klamath County Environmental Health Division Manager. The Environmental Health Manager will review the submitted documentation and:~~

~~(a) If the documentation is complete, the Environmental Health Manager will issue a Notice of Noncompliance, a Citation and Summons to the violator to appear in court, or other legal action depending on the severity and frequency of the violation.~~

~~(b) If the documentation is not complete, the Environmental Health Manager will issue a Notice of Noncompliance to the alleged violator, and send a copy of the documents to the Air Quality Inspector who observed the violation.~~

~~(3) NOTICE OF NONCOMPLIANCE - A Notice of Noncompliance as defined in Section 406.005(19) may be issued to the violator as the sole enforcement action, or in addition to a citation.~~

~~(a) The notice shall contain the date, time and street name and number and the violation observed.~~

~~(b) The notice shall specify the corrective action that must be taken and the time in which it must be accomplished.~~

~~(c) The notice may require that within ten (10) days of correcting the violation, the violator shall in writing notify the Klamath County Air Quality Inspector that the corrective action has been taken.~~

~~(4) AIR QUALITY CITATIONS - An appropriate law enforcement officer or a Klamath County Environmental Health Division~~



~~Manager may issue a Citation and Summons to appear in court for a violation of this Chapter.~~

~~**406.400 Penalties.** Failure to comply with the provisions of this Chapter shall be subject to fines of up to \$720.00 for a one-time occurrence, and fines of not more than \$1,000.00 for a continuing, or repeated offense. This provision will be enforced in accordance with Chapter 800, Uniform Civil Violation Procedure of the Klamath County Code.~~

**406.450 Severability.** If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and shall not affect the validity of the remaining portion thereof.

**406.500 Air Quality Advisory Committee and Contingency Strategies.**

(1) COMMITTEE. Klamath County Board of Commissioners hereby establishes the Klamath County Air Quality Advisory Committee. The purpose of the Committee is to evaluate relevant air quality data; identify significant contributing emission sources; develop appropriate emission reduction strategies such as the expansion of the Air Quality Zone and will recommend action to the Board of County Commissioners. The committee will meet semi-annually, once in the spring and again in the fall, and at other times as deemed necessary. The Committee will be composed of interested persons representing industry, the general public and governmental agencies.

(2) CONTINGENCY MEASURES. If the Klamath Falls Nonattainment Area does not meet the federal deadline (December 2014) for compliance with PM2.5 (2006) standard by the Department of Environmental Quality, Klamath County automatically requires the following Best Available Control Measures to become additions to Sections 406.100 and 406.150:

(a) Beginning March 1, 2015, within the air quality zone, the use of fireplaces, without certified inserts or not meeting fireplace ASTM standards, shall be prohibited between November 1 and February 28 of each winter heating season. On a case by case basis, the Environmental Health Program may grant a limited short term exemption for holidays or special occasions on green advisory days only in accordance with Section 406.200.

The Exhibits can be obtained from the County Counsel Office, 305 Main Street, 2<sup>nd</sup> Floor, Klamath Falls, OR 97601; the Klamath County Library; or the Klamath County Law Library. They can also be accessed at the following links:

## Ordinance No.920

### AN ORDINANCE AMENDING SECTION 7 OF ORDINANCE 914 AND ADOPTING NEW STANDARDS FOR THE OAKRIDGE AIR POLLUTION CONTROL PROGRAM

**WHEREAS**, The health, safety and welfare of the citizens of the City of Oakridge are adversely affected by the degradation of air quality and violations of federal ambient air quality standards, as measured by the Lane Regional Air Protection Agency (LRAPA), occur periodically in the City of Oakridge; and

**WHEREAS**, Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards; and

**WHEREAS**, The periodic restriction of the use of solid fuel burning devices will improve air quality and LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of the City of Oakridge; and

**WHEREAS**, The Federal Government has recently lowered the thresholds under which conditions are defined; and

**WHEREAS**, The City of Oakridge wishes to develop the following rules and regulations in an effort to comply with LRAPA regulations and to protect its citizens from harmful air particulates.

### **NOW, THEREFORE THE CITY OF OAKRIDGE ORDAINS AS FOLLOWS:**

#### **Section One. Definitions.**

For the purpose of this section the following definitions apply:

- (1) "City Administrator" means City Administrator or designee, including, if the City Administrator so designates, LRAPA.
- (2) "EPA method" means 40 CFR Part 60, Subpart AAA, Sections 60.531, 60.534 and 60.535.
- (3) "Fireplace" means a solid fuel burning device with an air/fuel ratio of greater than thirty 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. (Cannot operate on Red or Yellow Advisory days effective 10-01-2017 if attainment is not met).

- (4) "Green Advisory" means a 24 hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM 2.5 levels are forecast to be less than 20 micrograms per cubic meter.
- (5) "LRAPA" means Lane Regional Air Protection Agency, a regional air quality control authority established under the provisions of, and with authority and powers derived from, Oregon Revised Statutes 468A.100 et seq.
- (6) "Opacity" means the degree to which an emission reduces transmission of light or obscures the view of an object in the background.
- (7) "Oregon method" means Oregon Department of Environmental Quality "Standard Method for Measuring the Emissions and Efficiencies of Woodstoves", Sections 1 through 8 and O.A.R. Chapter 340. Division 21 Sections 100, 130, 140, 145, 160, 161, 163, 164, 165.
- (8) "Pellet stove" means an enclosed solid fuel burning device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to1 as determined by the federal test method described in 40 CFR Part 60.534.
- (9) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any charter.
- (10) "Person in Charge of Property" means an agent, occupant, lessee, tenant, contract purchase, or other person having possession or control of property.
- (11) "PM 2.5" means solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.
- (12) "PM 10" means solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.
- (13) "Red Advisory" means a 24 hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM 2.5 levels are forecast by LRAPA to be greater than or equal to 25 micrograms per cubic meter, within the Oakridge Area General Plan Urban Growth Boundary.(22 Micrograms effective 10-01-2017 if attainment not met).
- (14) "Seasoned wood" means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.
- (15) "Sole source of heat" means one or more solid fuel burning devices that:
  - (a) Constitutes the only source of heat in a private residence for purpose of space heating, or

- (b) Constitutes the main source of heat in a private residence where the residence is equipped with a heating system that is only minimally sufficient to keep the plumbing from freezing.
- (16) "Solid fuel burning device" means any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stove, fireplaces or wood stoves of any nature, combinations fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel burning device" does not include natural gas fired artificial fireplaces.
- (17) "Visible Emissions" means the reduction in transmission of light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.
- (18) "Yellow Advisory" means a 24 hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM 2.5 levels are forecast to be greater than or equal to 20 micrograms per cubic meter but less than 25 micrograms per cubic meter.
- (19) Wood heating advisory season can commence as early as October 1 and end as late as May 31<sup>st</sup>, as set by the City of Oakridge City Council and LRAPA Board.

**Section Two. Solid Fuel Burning Devices – Prohibitions.**

- (1) No person in charge of property during a Red Advisory shall operate or allow to be operated a solid fuel burning device which emits visible emissions into the air outside of the building housing the device, unless the person has been granted an exemption to use the device by the City Administrator.
- (2) Within the City, no person in charge of property shall at any time allow to be initiated or maintained in a solid fuel burning device the burning of any fuel other than seasoned wood; prohibited materials include plastics, wire insulation, petroleum by-products, petroleum-treated materials, rubber products, animal remains or animal or vegetable matter resulting from the handling, preparation, cooking or service of food, wood with a moisture content greater than twenty percent moisture by weight, or any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants.
- (3) No person in charge of property shall operate or allow to be operated a solid-fuel

burning device which discharges emissions that are of an opacity greater than 20%. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten minutes in any 4-hour period.

**Section Three. Solid Fuel Burning Devices Upon Sale of the Property.**

- (1) After June 30, 2003, all un-certified solid fuel burning devices contained on Property to be sold or rented must be removed from the property or rendered permanently inoperable unless otherwise exempted by this ordinance or the person in charge of the property is granted an exemption by the City Administrator.
- (2) The following solid fuel burning devices may remain on a property to be sold:
  - (a) Woodstoves if the emissions do not exceed:
    - (i) 6.0 grams per hour weighted average when tested in conformance with the Oregon Method; or
    - (ii) 5.5 grams per hour weighted average when tested in conformance with the EPA method.
  - (b) Commercially manufactured pellet stoves that have not been tested, but were installed prior to June 30, 2003.
  - (c) Fireplaces operated in accordance with Section Two of this ordinance.
  - (d) Wood-fired, forced-air combustion furnaces that primarily heat living space, through indirect heat transfer using forced-air duct work or pressurized water systems.
- (3) Within the City, it is unlawful for any person to complete, or allow the completion of the sale, transfer or conveyance of any real property unless a Certificate of Compliance is filed with the City Recorder's Office.
- (4) Once a certificate of Compliance has been filed for a property, another certificate is not needed if the number and type of stoves on the real property matches what is on file at the City. The City shall list properties with Certificates of Compliance on the internet. A copy of the list must be available at the City for inspection.
- (5) The Certificate of Compliance must state that either:
  - (a) there are no solid fuel burning devices on the property; or
  - (b) any solid fuel burning devices on the property meet the requirements of this section.

- (6) The Certificate of Compliance must be in a format specified by the City and must be signed by the seller (s), and, if any sold fuel burning devices will remain on the property, a certified City inspector.
- (7) The Certificate of Compliance does not constitute a warranty or guarantee by the City or its agents that the Solid Fuel Burning Device on the property meets any other standards of operation, efficiency or safety, except the emission standards contained in this Ordinance.

**Section Four. Solid Fuel Burning Devices Prohibited.**

After December 31, 2008, a person or persons may not install or use any solid fuel burning device in any structure within the City except for certified wood stoves, certified pellet stoves with emissions that do not exceed 1.0 gram per hour, weighted average when tested in conformance with the EPA Method, or a fireplace which is not a sole source of heat, operated in accordance with Section Two of this Ordinance.

**Section Five. Solid Fuel Burning Devices – Exemptions.**

Notwithstanding the prohibitions set forth in this Ordinance, a person in charge of property may retain in their home or operate a solid fuel burning device during a Green, Yellow or Red Advisory, if that person has previously obtained one of the following exemptions from the City Administrator:

- (a) Sole source of heat exemption. Persons in charge of property who signs a sworn statement that their solid fuel burning device is the sole source of heat for their residence are eligible for a sole source of heat exemption. The City may inspect to verify this fact, and to insure that the solid fuel burning device is certified, in its discretion. This exemption shall expire on July 1 of each year and must be renewed annually thereafter.
- (b) Economic need exemption. Persons in charge of property who demonstrate an economic need to burn solid fuel for space-heating purposes by qualifying for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the low income energy assistance program, as administered in Oakridge by the CDC, are eligible for an economic need permit. The City may insure that the solid fuel burning device is certified at its discretion. This exemption shall expire on July 1 of each year and must be renewed annually thereafter.

**Section Six. Enforcement.**

- (a) ~~In addition to, and not in lieu of any other enforcement mechanism authorized by the Oakridge City Code, upon a determination that a person has violated this Ordinance, the City Administrator or his/her designee may impose upon the violator and any other person in charge of the property, an administrative penalty not greater than \$500.00.~~
- (b) ~~Each day's violation of a provision of this Ordinance constitutes a separate offense punishable by the penalty set forth above.~~
- (c) ~~The City Administrator or his/her designee is also hereby authorized to designate LRAPA to enforce and administer the provisions of this code, including LRAPA's use of administrative and hearing procedures adopted by LRAPA in its duly promulgated regulations.~~

**Section Seven. Contingency Measures**

Reserved.

Note: Oakridge does not meet federal health-based standards for fine particulate (PM<sub>2.5</sub>) and was designated a non-attainment area by the Environmental Protection Agency (EPA) on October 8, 2009. An attainment plan was developed for Oakridge in 2012 containing contingency measures that would be implemented if Oakridge did not meet the PM<sub>2.5</sub> standard by the EPA Clean Air Act 2014 deadline. Oakridge did not meet the PM 2.5 standard by the EPA Clean Air Act 2014 deadline and the contingency measures in the 2012 plan are incorporated into earlier sections of this ordinance.

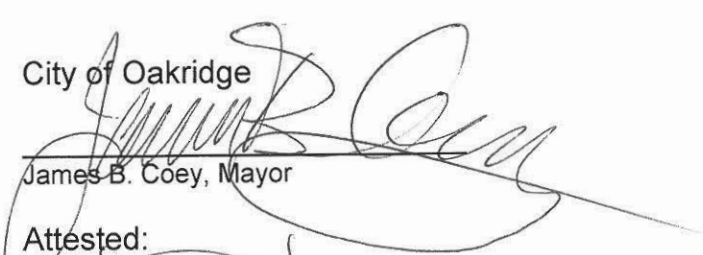
A supplemental plan with additional strategies and contingency measures was developed during 2016. If the EPA makes a finding that the Oakridge nonattainment area failed to attain the 2006 24-hour PM 2.5 standard by the applicable attainment date, the following requirements will automatically go into effect for the October 1<sup>st</sup>, 2017 Wood Heating Season.

- (1) The Red Advisory criteria in Section One (13) is reduced to forecasted PM 2.5 levels of 22 Micrograms per cubic meter; and
- (2) Fireplace use Section One (3) is prohibited during both Yellow Advisory and Red Advisory periods.


The reading of this ordinance is by title only approved on the 20th day of October, 2016.

Approved and signed by the Mayor on the 20th day of October, 2016.

City of Oakridge

  
James B. Coey, Mayor

Attested:

  
Susan LaDuke, City Recorder

Ayes: 6  
Nays: 0





## RESTRICTION ON USE OF SOLID FUEL SPACE HEATING DEVICES

### 9.120 Purpose and Findings.

(1) The health, safety and welfare of the citizens of Lane County are adversely affected by the degradation of air quality. Violations of federal ambient air quality standards, as measured by the Lane Regional Air Protection Agency (LRAPA), occur periodically in Lane County.

(2) Wood and other solid fuel combustion for space heating produces particulate matter and other emissions which are physically harmful and aesthetically unpleasant, and which contribute to the degradation of air quality and the violation of federal ambient air quality standards.

(3) Periodic restriction of the use of solid fuel space heating devices will improve air quality. LRAPA has the expertise to determine when such air quality is at such a level that such restriction is necessary to preserve the health, safety and welfare of the citizens of Lane County.

(4) It is the intent of Lane County that the penalty section of this ordinance not take effect until November 1, 1991. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-10, 6.11.10)*

### 9.125 Definitions.

As used herein, the following words and phrases have the meanings ascribed:

Green Advisory for Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 25 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Green Advisory for Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM2.5 levels are forecast to be less than 20 micrograms per cubic meter, within the Oakridge Urban Growth Boundary.

Lane Regional Air Protection Agency. A regional air quality control authority established under the provisions of and with the authority and powers derived from ORS 468.500 et seq. (renumbered 468A.100 through 468A.180 in 1991)

Opacity. The degree to which an emission reduces transmission of light or obscures the view of an object in the background.

Pellet Stove. An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35-to-1 as determined by the federal test method described in 40 CFR Part 60.534

Person. Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Person in Charge of Property. An owner, agent, occupant, lessee, tenant, contract purchaser, or other person having possession or control of property.

PM2.5. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.

PM10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

Sole Source of Heat. A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the sole source of heat if the private residence is equipped with any permanently-installed furnace or heating system utilizing oil, natural gas, electricity or propane.

Solid Fuel Space Heating Device. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. "Solid fuel space heating device" does not include natural gas-fired artificial fireplaces.

Red Advisory:

Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 30 micrograms per cubic meter within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter, or when PM2.5 levels are forecast by LRAPA to be greater than or equal to 25 micrograms per cubic meter within the Oakridge Urban Growth Boundary.

Visible Emissions. The reduction in transmission light or the obscuring of the view of an object in the background caused by the air pollutants emitted by the heating device. This does not include the visual distortion caused by the heated air emitted by the heating device.

Yellow Advisory:

Eugene-Springfield Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 20 micrograms per cubic meter but less than 25 micrograms per cubic meter, within the Eugene/Springfield Metropolitan Area General Plan Urban Growth Boundary.

Oakridge Area. A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM2.5 levels are forecast to be greater than or equal to 25 micrograms per cubic meter but less than 30 micrograms per cubic meter, within the Oakridge Urban Growth Boundary. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03; 1-10, 6.11.10; 16-10, 2.9.17)*

### **9.130 Area of Applicability.**

These Lane Code sections 9.120 through 9.150 apply to the unincorporated areas within the Eugene, Springfield, and Oakridge Urban Growth Boundaries. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 13-03, 10.23.03; 16-10, 2.9.17)*

### **9.135 Prohibitions.**

(1) Red Advisory. A person in charge of property violates this section 9.135(1) if the person during a Red Advisory operates or allows to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device unless the person in charge of the property has been granted an exemption to use the device by LRAPA.

(2) Visible Emissions Limitations for Eugene-Springfield Area. A person in charge of property violates this section 9.135(2) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than forty (40) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(3) Visible Emissions Limitations for Oakridge Area. A person in charge of property violates this section 9.135(3) if the person operates or allows to be operated a solid fuel space heating device which discharges emissions that are of an opacity greater than twenty (20) percent. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten (10) minutes in any four (4) hour period.

(4) Prohibited Materials. A person in charge of property violates this section 9.135(4) if the person at any time allows to be initiated or maintained in a solid fuel space heating device the burning of any plastics, wire insulation, petroleum by-products (with the exception of natural-gas-fueled log lighters), petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 13-03, 10.23.03; 16-10, 2.9.17)*

**9.140 Exemption for Economic Need.**

Exemption from LC 9.135 above for Red Advisories may be obtained from LRAPA for economic need. Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program as administered by the Lane County Housing Authority and as established by the United States Department of Energy are exempt from LC 9.135 above for Red Advisories. Individual exemptions shall expire on July 1 of each year and must be renewed annually. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 16-10, 2.9.17)*

**~~9.145 Enforcement.~~**

~~The Board of County Commissioners designates LRAPA and delegates to LRAPA authority to enforce the prohibitions contained herein. The investigation, initiations of proceedings, adjudication of a failure to comply and appeal of such are regulated by the adopted administrative and hearing procedures of LRAPA set forth in its Rules and Regulations.~~

~~The County retains the right to investigate and enforce the terms of this ordinance. Existing citation, complaint, violation, or failure to comply procedures applicable to the County may be utilized to prosecute such failures to comply. *(Revised by Ordinance No. 9-90, Effective 1.18.91; 1-00, 4.12.00; 16-10, 2.9.17)*~~

**~~9.150 Penalties.~~**

~~A person who violates any provision of LC 9.135 above is subject to administrative enforcement pursuant to LC Chapter 5, including a monetary penalty of a minimum of \$50 to a maximum of \$500 for each day in which such failure to comply occurs. This remedy is cumulative and is in addition to any and all other remedies available to Lane County. *(Revised by Ordinance No. 9-90, Effective 1.18.91;*~~