

## ORDINANCE #287

AN ORDINANCE OF THE CITY OF DAYTON, IDAHO, SETTING FORTH THE AUTHORITY AND PURPOSE OF SAID ORDINANCE; DEFINITIONS OF TERMS CONTAINED THEREIN; ESTABLISHING AIR QUALITY DESIGNATIONS AND ALERT CRITERIA; PROHIBITING THE BURNING OF CERTAIN FUELS OR REFUSE WITHIN A SOLID FUEL HEATING APPLIANCE OR THE BURNING OF MATERIALS WHEN AIR POLLUTANTS REACH A CERTAIN LEVEL; ESTABLISHING SOLID FUEL HEATING APPLIANCE RESTRICTIONS AND PERMITS THEREFOR AND EXEMPTIONS FROM RESTRICTIONS; SETTING FORTH MINIMUM STANDARDS FOR CLEAN BURNING APPLIANCES, AND PRESCRIBING A PENALTY FOR VIOLATION OF THIS ORDINANCE; REPEALING OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; WAIVING THE RULE REQUIRING READING OF THIS ORDINANCE ON THREE SEPARATE OCCASIONS; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAYTON, IDAHO, AS FOLLOWS:

**Section 1:** *Authority and Purpose.* The purpose of this ordinance is to protect air quality resources vital to the public health, safety, and welfare of the City of Dayton by controlling emissions from solid fuel and refuse burning. This ordinance is promulgated under the authority of Idaho Code Section 50-302.

**Section 2:** *Definitions:* For the purpose of this ordinance, the following terms, phrases, words, and derivations all have the meanings given herein. The word "shall" is always mandatory and not merely directive.

**AIR POLLUTION:** The presence in the outdoor atmosphere of any contaminate or combinations thereof in such quality or of such nature and duration and under such conditions as would be injurious to human health or welfare, to plant or animal life, or to property, to interfere unreasonably with the enjoyment of life or property.

**BUILDING:** Any structure, dwelling, office, industrial plant, garage, or barn, whether publicly or privately owned or any other structure as defined by the International Building Code.

**BURN DOWN:** That period of time following an air pollution alert required for the cessation of combustion within solid fuel heating appliances or any other door fires or burning or incineration included within this ordinance.

**CLEAN BURNING APPLIANCE:** A solid fuel heating appliance that has been certified as clean burning by the United States Environmental Protection Agency (EPA).

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

**HEAT OUTPUT:** The British thermal unit (BTU)/hour output of a solid fuel heating appliance.

**OPEN BURNING:** For the purposes of this ordinance, the combustion of any material not contained in a heating appliance. Also for the purposes of this ordinance, the use of a fireplace is considered open burning.

**PARTICULATE MATTER (PM<sub>10</sub>/PM<sub>2.5</sub>):** Any gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.

**PERSON:** Any individual, firm, partnership, association, corporation, company, organization, or governmental entity.

**REFUSE:** All solid waste, garbage, and rubbish, including, but not limited to, plastic, rubber, Styrofoam, petroleum products, foodstuff, Christmas trees, yard debris, or chemically treated wood.

**SOLE SOURCE:** One or more solid fuel heating devices which constitute the only source of heat in a building for the purpose of space heating. No solid fuel heating device(s) shall be the sole source of heat if the building is equipped with a permanently installed furnace or heating system designed to heat the building that is connected or unconnected from its energy source, utilizing oil, natural gas, electricity, or propane.

**SOLID FUEL:** Any form of untreated wood, coal, pressed logs, and pellet fuel.

**SOLID FUEL HEATING APPLIANCE:** An enclosed device designed for solid fuel combustion that meets all of the following criteria:

- A. An air to fuel ratio averaging less than thirty-five to one (35 to 1);
- B. Firebox volume less than twenty (20) cubic feet;
- C. Minimum burn rate less than five kilograms (5kg) per hour; and
- D. Maximum weight of less than eight hundred kilograms (800 kg).

**Section 3:** *Air Quality Designations and Alert Criteria:*

- A. The quality of the city's air shall be determined by monitoring pollutant levels in and/or around the city with equipment and methods approved and provided by DEQ at its expense.

- B. The quality of the city's air shall be designated by DEQ according to the following table (as may be amended from time to time by the EPA):

Air Quality Index (AQI)

<u>DESIGNATIONS</u>	<u>AQI</u>
GOOD	0-50
MODERATE	51-100
UNHEALTHY FOR SENSITIVE GROUPS	101-150
UNHEALTHY	151-200
VERY UNHEALTHY	201-300
HAZARDOUS	301-500

- C. All wood burning, including, but not limited to, within a solid fuel heating appliance designed for wood fuel (commonly known as a "wood stove") or open fireplace, is prohibited whenever the DEQ forecasts an AQI of seventy-five (75) or greater or forecasts air stagnation conditions will continue for at least twenty-four (24) hours.
- D. No person shall allow, suffer, cause, or permit any open burning of any kind (see IDAPA 58.01.01.600 – 623) whenever DEQ forecasts an AQI of 75 or greater or forecasts air stagnation conditions will continue for at least 24 hours.

**Section 4:** *Public Notification by DEQ:*

Whenever air pollution alert conditions are met, local print and news media, local officials, the police and fire departments, and city officials will be notified by DEQ. In addition, DEQ will post information on the DEQ website and the air quality hotline.

**Section 5:** *Burning Solid Fuel or Refuse:*

- A. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel commonly known as a "woodstove."
- B. No person shall cause or allow a wood stove to be operated contrary to the design, specifications, and manufacturer's instructions.
- C. Notwithstanding the provisions of any section of this ordinance, no person shall allow, suffer, cause, or permit the burning of materials which emit toxic contaminants or large volumes of smoke, particulate, or odors deemed a public nuisance; such prohibited materials consist of, but are not limited to, the following: garbage, tires or

any other rubber materials, plastics, heavy petroleum products, dead animals or parts thereof, treated lumber, trash, wet or green vegetation, trade waste, commercial waste, roofing materials or any other asphaltic materials, drywall, sheetrock, tarpaper, floor underlayment, insulation, chemicals, household garbage, motor vehicles or parts thereof whether junked or not, insulated wire, pathogenic wastes, hazardous wastes, etc.

- D. No person shall operate a residential solid fuel burning device or fireplace if the visible emissions exceed 20% opacity as measured by EPA method 9, except as follows:
1. During an initial fifteen minute start-up period, or
  2. During refueling operations which may not exceed a fifteen minute period in any three hour period.
- E. Notwithstanding the provisions of any section of this ordinance, no person shall allow, suffer, cause, or permit the burning of any materials when the AQI as forecasted by the DEQ reaches (75) or higher for any air pollutant within the Cache Valley Airshed.

**Section 6:** *Solid Fuel Heating Appliance Restrictions:*

- A. From the date that this ordinance is effective, no person may sell or offer for sale except for scrap metal within the city limits of Dayton any solid fuel heating appliance which is not listed and certified by the EPA as a clean burning appliance.
- B. No person shall install any solid fuel heating appliance in any new or existing building without first having obtained a permit to do so from the City. In order for such a permit to be granted, all such appliances shall be listed and certified by the EPA as clean burning appliances.
- C. From the date the ordinance is effective: no person shall construct, or attempt to construct, any building for which a solid fuel burning appliance will be the sole source of heat.

**Section 7:** *Exemptions from Restrictions:*

- A. All solid fuel burning appliances classified by the EPA as a clean burning appliance may be operated during an air quality alert.
- B. A three hour burn down period shall be allowed for solid fuel heating appliances or fireplaces whose operation was commenced prior to the air quality alert.

- C. The City of Dayton may grant exemptions from this ordinance if it is determined that on existing buildings:
1. A solid fuel heating appliance is the sole source of heat for the structure in which it is situated, or
  2. Using alternative heating would cause an unreasonable economic hardship.
- D. Any building constructed after the effective date of this ordinance shall not be eligible for an exemption under subsections C1 and C2 of this section.

**Section 8:** *Minimum Standards for Clean Burning Appliances:*

- A. Appliances shall meet the requirements of the Code of Federal Regulations, Title 40, Part 60, Subpart AAA, "Standards of Performance for New Residential Wood Heaters."

**Section 9:** *Penalty:*

A violation of any of the provisions of this ordinance shall constitute a misdemeanor punishable by a fine up to \$1,000 and by confinement in the county jail for a period not to exceed six (6) months or by both such fine and imprisonment.

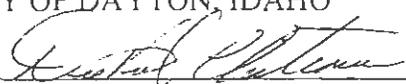
**Section 10:** The rule requiring that this ordinance be read on three separate occasions is hereby waived.

**Section 11:** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

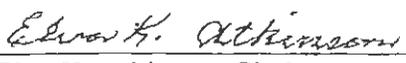
**Section 12:** This ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED by the Mayor and City Council of the City of Dayton, Idaho, this 8<sup>th</sup> day of August, 2012.

CITY OF DAYTON, IDAHO

By:   
Dee Virile Christensen, Mayor

ATTEST:

  
Elva K. Atkinson, Clerk