

ORDINANCE NO. 245

AN ORDINANCE OF THE CITY OF EAGLE CITY, ADA COUNTY, IDAHO,
~~AMENDING TITLE 4 OF THE EAGLE CITY CODE TO ESTABLISH REQUIREMENTS~~
LIMITING THE BURNING OF SOLID FUEL AND/OR REFUSE DURING DECLARED
AIR POLLUTION ALERTS

WHEREAS, the City of Eagle, Ada County, Idaho (the "City") is a municipal corporation of the State of Idaho and is authorized by Chapter 3, Title 50, Idaho Code, to adopt ordinances to maintain the welfare of the City and where federally mandated enforce such ordinances by either criminal or civil penalties; and

WHEREAS, the City Council of the City of Eagle (the "Council") has found that the health and welfare of the residents of the City are adversely impacted by air pollution caused by the burning of solid fuel and refuse; and

WHEREAS, the State of Idaho, Department of Health and Welfare, Division of Environmental Quality ("IDEQ") has established a program pursuant to Chapter 85, Title 42, United States Code (the federal "Clean Air Act") for the establishment of air quality designations, alert criteria and bans for solid fuel and refuse burning; and

WHEREAS, the Council has found that controlling the emissions from solid fuel and refuse burning will protect the health and welfare of the citizens of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF EAGLE, ADA COUNTY, IDAHO, as follows:

Section 1: That Title 4, Eagle City Code, be, and the same hereby is, amended to add a new Chapter 6 as follows:

Chapter 6

CLEAN AIR

4-6-1: **SHORT TITLE:** This Chapter shall be known and cited as the City of Eagle Clean Air Ordinance.

4-6-2: **AUTHORITY AND PURPOSE:** The purpose of this Chapter is to protect air quality resources vital to the public health, safety, and welfare of the City of Eagle residents

and the economic future of the City of Eagle by controlling emissions from solid fuel and refuse burning. This Chapter is promulgated under the authority of Idaho Code Section 50-302.

4-6-3: DEFINITIONS: For the purpose of this Chapter, the following terms, phrases, words, and derivations all have the meanings given herein. The word "shall" is always ~~mandatory and not merely directory.~~

AIR POLLUTION

The presence in the outdoor atmosphere of any contaminant or combinations thereof in such quality or of such nature and duration and under such conditions as would be injurious to human health or welfare, to 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 Uniform Building Code as adopted by Chapter 1, Title 7, Eagle City Code.~~

BURN DOWN

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

CLEAN BURNING APPLIANCE

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

ECONOMIC HARDSHIP

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

FIREPLACE

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

HEAT OUTPUT	The British Thermal Unit (BTU)/hour output of a solid fuel heating appliance.
OPEN BURNING	Means the combustion of any material not contained in a heating appliance or incinerator.
PARTICULATE MATTER	Any gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.
PERSON	Any individual, firm, partnership, association, corporation, company, organization or governmental entity.
REFUSE	All solid waste, garbage, and rubbish, including but not limited to, cardboard, plastic, rubber, styrofoam, petroleum products, food stuff, Christmas trees, yard debris, or chemically treated wood.
REFUSE INCINERATOR	Any device designed or operated to reduce the volume of refuse. Natural gas-fired pathological incinerators are excluded.
SOLE SOURCE	Means one or more solid fuel heating devices which constitute the only source of heat in a building for the purpose of space heating. No solid fuel heating device(s) shall be the sole source of heat if the building is equipped with a permanently installed furnace or heating system designed to heat the building that is connected or unconnected from its energy source, utilizing oil, natural gas, electricity or propane.
SOLID FUEL	Any form of untreated wood or coal.
SOLID FUEL HEATING APPLIANCE	An enclosed device designed for solid fuel combustion that meets all of the following criteria: <ul style="list-style-type: none"> a) an air-to fuel ration 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 (5) kilograms per hour; and d) maximum weight of less than eight hundred (800) kilograms. <p>Explicitly excluded are furnaces, boilers, cook stoves, and open fireplaces.</p>

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

- A. The quality of the City of Eagle's air shall be determined by monitoring pollutant levels in and/or around the City of Eagle with equipment and methods approved by the Idaho State Department of Environmental Quality.
- ~~B. The quality of the City of Eagle's air shall be designated according to the following table, where "PM 10" indicates particulate matter with an aerodynamic diameter less than or equal to ten (10) microns:~~

<u>Health Effect Designation</u>	<u>PM 10 Concentrations 24-hour (ug/m³)</u>
Good	0-50
Moderate	51-150
Unhealthful	151-350
Very Unhealthful	351-420
Hazardous	> 420

- C. In order to prevent the existence of air quality that is unhealthful, an air pollution "alert" will be declared whenever the Idaho Department of Environmental Quality measures levels of PM 10 concentrations exceeding 100 micrograms per cubic meter (ug/m³) and forecasts air stagnation conditions continuing for at least 24 hours.

4-6-5: PUBLIC NOTIFICATION: Whenever air pollution alert conditions are met, local print, radio, and television news media will be notified. Announcements of the existence of an air pollution "alert" will be made by the news media during regularly scheduled broadcasts.

4-6-6: BURNING SOLID FUEL OR REFUSE:

- A. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.
- B. No person shall cause or allow a refuse incinerator to be operated contrary to the design, specifications, and manufacturer's instructions.

4-6-7: AIR QUALITY ALERT/ADDITIONAL RESTRICTIONS: At the onset and during the pendency of a declared air quality "alert," the following additional restrictions apply:

- A. No person shall cause or allow, after a three (3) hour "burn down", the operation of a solid fuel heating appliance or open fireplace, unless an exemption has been granted by the City Clerk.
- B. No person shall cause or allow the operation of a solid waste incinerator.
- C. ~~No person shall cause or allow open burning of refuse or solid fuel.~~

4-6-8: AIR QUALITY ALERT EXEMPTIONS:

- A. The City Clerk shall grant exemptions from this Chapter if it is determined by the City Clerk that:
 - 1. A solid fuel heating appliance is the sole source of heat for the structure in which it is situated; or
 - 2. Using alternative heating would cause an unreasonable economic hardship; or
 - 3. The solid fuel heating appliance is listed by the City Clerk as a clean burning appliance.
- B. Any person denied an exemption under this Chapter shall be provided, at the option of the applicant for the exemption, a hearing before the City Council.
- C. Any building constructed after the effective date of this Chapter shall not be eligible for an exemption under subsections 1 and 2 above.

4-6-7: MINIMUM STANDARDS FOR CLEAN BURNING APPLIANCES:

- A. In no event shall the standards for clean burning solid fuel heating appliances allow a weighted average particulate emission greater than:
 - 1. For a new clean burning solid fuel heating appliance with a minimum heat output of less than 40,000 BTU per hour and tested pursuant to procedures approved by the Building Department.
 - a. 7.5 grams per hour for a non-catalytic solid fuel heating appliance.
 - b. 4.1 grams per hour for a catalytic solid fuel heating appliance.
 - 2. Clean burning solid fuel heating appliances with a minimum heat output of greater than 40,000 BTU per hour shall not exceed an average particulate emission

standard equal to the sum of 8.0 grams per hour plus 0.2. grams per hour for each 1,000 BTU per hour heat output.

3. For any other solid fuel heating appliance officially exempted by the Environmental Protection Agency from the above requirements.

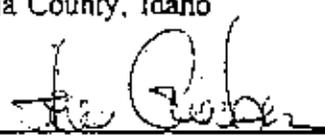
~~4-9-10: APPLICABILITY OF CHAPTER: Nothing in this Chapter is intended to conflict with, supersede, repeal, or affect any other regulations or requirements for the installation or inspection of solid fuel heating appliances, including, but not limited to, those regulations adopted at Chapter ___, Title ___, _____ City Code. Further, nothing in this Chapter is entitled to conflict with, supersede, repeal, or affect any other regulations or requirements for the burning, outdoor fires, and incineration permits including, but not limited to, those regulations adopted at Chapter ___, Title ___, Section ___, _____ Code.~~

4-9-11: **PENALTY:** A violation of any of the provisions of this Chapter or the failure or omission to perform any duty imposed by the provisions of this Chapter is hereby declared unlawful and punishable as a misdemeanor.

Section 2: This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law. In lieu of publication of the entire Ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

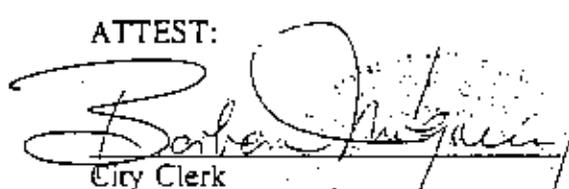
DATED this 26 day of April, 1994.

CITY OF EAGLE
Ada County, Idaho



Mayor

ATTEST:



City Clerk

(S E A L)