

TITLE 5 PUBLIC HEALTH AND SAFETY

CHAPTER 2 SOLID WASTE MANAGEMENT ¹

5-2-7-2: OPEN BURNING AND BURNING PERMITS:

No person shall build, ignite, or maintain any outdoor fire of any kind or character, or for any purposes whatsoever, unless the person obtains a burning permit issued by the board. Open burning shall only be conducted under the guidelines established by a permit issued by the board and conducted as required by other governing agencies regulating emissions.

A. Allowed Burning: Open burning shall be allowed by permit in the following cases:

1. Field burning where there is no alternative cropping practice that provides equivalent benefits; and/or
2. Fires used to keep irrigation ditches and fence rows clear of plant and weed growth; and/or
3. Fires used for control or alleviation of fire hazard or for weed control when no alternative control method exists; and/or
4. Fires used in the training of organized firefighting personnel; and/or
5. Fires used to dispose of tree remnants and dry vegetation where no other practical or alternative method of disposal is available.

B. Prohibited Burning:

1. Notwithstanding the provisions of any section of this chapter, no person shall allow, suffer, cause or permit the burning of materials that emit toxic contaminants or large volumes of smoke, particulates or odors, such as, including, but not limited to, the following: wet or green vegetation, commercial waste, drywall, Sheetrock, floor underlayment, insulation, chemicals, motor vehicles and parts thereof, dead animals or parts thereof, junked motor vehicles or any materials resulting from a salvage operation, tires or other rubber materials or products, plastics, asphalt or composition roofing or any other asphaltic material or product, tar, tarpaper, waste or heavy petroleum products, paints, lumber, or timbers treated with preservatives, insulated wire, and pathogenic wastes or hazardous wastes.

2. Any burning that would otherwise be allowed under this chapter, but is determined to be a nuisance, hazard or source of air pollution, shall be prohibited.

3. No person shall allow, suffer, cause or permit the open burning of any material that violates an air pollution alert as specified in chapter 10 of this title, known as the Ada County clean air ordinance.

C.Restrictions On Open Burning:

1. Open burning shall not be conducted within fifty feet (50') of any structure or combustible material. Conditions which could cause the fire to spread to within fifty feet (50') of a structure shall be eliminated prior to ignition. This fire distance restriction from structures is not applicable to authorized burning of irrigation ditches for the purpose of maintaining adequate irrigation.

2. Any open burning shall be constantly attended by a competent person until the fire is completely extinguished. This person must have a garden hose connected to a water supply or other approved fire extinguishing equipment readily available.

3. No person shall kindle a fire upon the premises of another without the permission of the owner or his agent.

4. Open burning hours are from dawn until dusk; no person may conduct open burning at night or allow a fire to smolder overnight.

5. The chief or inspector has the authority to require that open burning be immediately discontinued if the chief or inspector determines that smoke emissions constitute a public nuisance or hazardous condition.

6. Special fires are allowed at the discretion of the chief of the fire district wherein the fire is to be located, or, if the fire is to be located outside a fire district, by the director of solid waste management. Special fires are fires not falling into subsection B of this section.

7. All open burning, even if a valid permit has been issued, is prohibited when the air quality index, as reported by the Idaho department of environmental quality (DEQ), reaches sixty (60) or higher for any pollutant. It is the responsibility of the holders of valid permits to determine the level of the air quality index, prior to igniting any permitted open burning.

D.Burning Permits And Applications: Burning permits for fires to be burned in a fire district are to be obtained from the fire district wherein the fire is to be located and the procedures for issuance of such permits shall be established by each fire district. Burning permits for fires to be burned outside a fire district must be obtained from the department of solid waste management.

1. All applications for burning permits must contain all the following information when applicable:

- a. Name, address, business phone, and home phone.
- b. Number of days per year applicant expects to burn.
- c. Primary time of the year, indicated by the month or months, the applicant expects to burn under the permit.
- d. Estimated length and width of ditch, fence, and acreage to be burned, and/or amount of material to be burned in cubic yards, not to exceed ten (10) cubic yards at a time.
- e. Type of material to be burned and location of proposed burning.

2. All issued permits must contain all the following information:

- a. Name, address, business phone and home phone of permittee.
- b. Location of proposed burning.
- c. Fire district where proposed burning is to occur.
- d. Conditions under which burning is allowed according to the chief of the fire district where burning is to occur.
- e. Signature of issuing officer.
- f. Signature of permittee.

3. Burning permits can be issued for up to one year, but suspended by the chief or director of solid waste management for any area declared an "extreme fire hazard" and for any period of severe air pollution or air pollution dispersal conditions as specified upon the permit.

4. Any person denied a burning permit may appeal the decision in writing to the board within thirty (30) days. The board shall rule on said appeal within fifteen (15) days of receipt.

5. Burning permits can be revoked by the chief or the director of solid waste management for noncompliance with the issued permit.

E. Recreational Or Warming Fires: Recreational or warming fires, when conducted under the provisions of this section, do not constitute open burning and therefore no burning permit is required.

1. Recreational and warming fires shall not be conducted within twenty five feet (25') of a structure or combustible material unless contained in a barbecue pit. Conditions

which could cause a fire to spread to within twenty five feet (25') of a structure shall be eliminated prior to ignition.

2. A hose connected to a water supply or other approved fire extinguishing equipment must be readily available.

3. Recreational and warming fires must be constantly attended to by a responsible and knowledgeable person until extinguished.

4. No person shall allow, suffer or cause or permit a recreational or warming fire that violates air pollution alerts as specified in chapter 10 of this title known as the Ada County clean air ordinance.

5. The chief, director of solid waste management, and inspector are authorized to require that a recreational or warming fire be extinguished if the chief or inspector or director of solid waste management determines that smoke emissions constitute a public nuisance or hazardous condition. (Ord. 577, 3-22-2005)

CHAPTER 10 CLEAN AIR

5-10-1: SHORT TITLE:

This Chapter shall be known and cited as the *Ada County Clean Air Ordinance* . (Ord. 254, 11-3-92)

5-10-2: AUTHORITY AND PURPOSE:

The purpose of this Chapter is to protect air quality resources vital to the public health, safety, and welfare of Ada County residents and the economic future of Ada County by controlling emissions from solid fuel and refuse burning. This Chapter is promulgated under the authority of the Idaho Constitution, Article 12, Section 2, and Idaho Code §§ 31-714 and 31-801. (Ord. 254, 11-3-92)

5-10-3: APPLICABILITY:

This Chapter shall apply to all areas of unincorporated Ada County with the following areas specifically excluded from this Chapter:

- A. All that area of Ada County lying to the south of the Boise Base Line. The Boise Base Line being that line which runs from the southwest corner of section thirty-one (31), township one (1) north, range one (1) west, east to the southeast corner of section thirty-three (33), township one (1) north, range four (4) east.

- B. That area of southwest Ada County that lies south of Amity Road and west of Cloverdale Road to the point where Cloverdale Road intersects the Boise Base Line.
- C. All areas of Ada County that are at three thousand five hundred feet (3,500') above mean sea level.

A copy of a map showing the areas to be excluded from this Chapter is available from the Clerk of the Board of Ada County Commissioners. (Ord. 254, 11-3-92)

5-10-4: DEFINITIONS:

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

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

BUILDING: Any structure, dwelling, office, industrial plant, garage or barn, whether publicly or privately owned or any other structure as defined by the Uniform Building Code as adopted by [Chapter 2, Title 7](#), Ada County Code.

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

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

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

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 decorative masonry or other building materials. A residential solid fuel burning device which is freestanding or which is installed into an existing "fireplace" opening is not included in the definition of "fireplace".

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

OPEN BURNING: 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: 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:

- 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 (5) kilograms per hour; and
- D. Maximum weight of less than eight hundred (800) kilograms.

Explicitly excluded are furnaces, boilers, cook stoves, and open fireplaces.

WEIGHTED AVERAGE: The weighted average of the test results of the distribution of the heating needs in Ada County as calculated by the Building Department of Ada County. (Ord. 254, 11-3-92)

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

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

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

Health Effect PM 10 Concentrations

Designation 24-hour (ug/m3)

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 one hundred (100) micrograms per cubic meter (ug/m3) and forecasts air stagnation conditions continuing for at least twenty four (24) hours. (Ord. 254, 11-3-92)

5-10-6: PUBLIC NOTIFICATION:

Whenever air pollution alert conditions are met, local print, radio, and television news media will be notified. Announcements of the existence of an air pollution "alert" will be made by the news media during regularly scheduled broadcasts and in all editions of the official newspaper of Ada County. (Ord. 254, 11-3-92)

5-10-7: BURNING SOLID FUEL OR REFUSE:

- A. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.
- B. No person shall cause or allow a refuse incinerator to be operated contrary to the design, specifications, and manufacturer's instructions. (Ord. 254, 11-3-92)

5-10-8: AIR QUALITY ALERT/ADDITIONAL RESTRICTIONS:

At the onset and during the pendency of a declared air quality "alert", the following additional restrictions apply:

- A. No person shall cause or allow, after a three (3) hour "burn down", the operation of a solid fuel heating appliance or open fireplace, unless an exemption has been granted by the Building Department in Ada County and an exemption decal is displayed and visible from a place of public access.
- B. No person shall cause or allow the operation of a solid waste incinerator.

C. No person shall cause or allow open burning of refuse or solid fuel. (Ord. 254, 11-3-92)

5-10-9: AIR QUALITY ALERT EXEMPTIONS:

A. Ada County Development Services shall grant exemptions from this Chapter if it is determined by Ada County Development Services that:

1. A solid fuel heating appliance is the sole source of heat for the structure in which it is situated; or
2. Using alternative heating would cause an unreasonable economic hardship; or
3. The solid fuel heating appliance is listed by Ada County Development Services as a clean burning appliance.

B. Any person denied an exemption under this Chapter shall be provided, at the option of the applicant for the exemption, a hearing before the Building Board of Appeals as created at [Title 7, Chapter 1](#), Ada County Code.

C. Any building constructed after the effective date of this Chapter shall not be eligible for an exemption under subsections A1 and A2 above. (Ord. 254, 11-3-92)

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

A. It shall be unlawful for any person in the unincorporated areas of Ada County to install a solid fuel heating appliance in any new or existing building without first obtaining from Ada County Development Services a solid fuel heating appliance permit.

B. It shall be unlawful on or after July 1, 1987, for any person in unincorporated Ada County to: advertise for sale, offer to sell, or sell for installation in any new or existing building, a solid fuel heating appliance which is not a clean burning appliance. (Ord. 254, 11-3-92)

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

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

B. Ada County Development Services shall maintain a list of clean burning appliances. (Ord. 254, 11-3-92)

5-10-12: DENIAL OF PERMIT:

- A. Upon a showing of sufficient cause to believe that grounds exist for the denial of the permit, the Director of Ada County Development Services or his designee may deny an application for a permit by sending through the regular mail to the address on the application a written notice containing the grounds for said denial and of the applicant's opportunity to appeal said denial to the Building Board of Appeals as created at [Title 7, Chapter 1](#), Ada County Code.
- B. Failure of a person to actually receive a notice sent shall not invalidate the denial.
- C. The applicant, upon receiving notice of the denial, may appeal said denial by making application with Ada County Development Services for a hearing before the Building Board of Appeals within ten (10) working days of receipt of the above notice. (Ord. 254, 11-3-92)

5-10-13: DENIAL HEARING AND DETERMINATION BY BOARD:

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

- A. Uphold the denial by the Director of Development Services or his designee; or
- B. Allow the issuance of the permit or exemption with modifications or conditions as the Board may impose, such modifications or conditions to be reasonably related to the use of the permit or exemption. (Ord. 254, 11-3-92)

5-10-14: APPEAL OF DECISION OF BOARD:

A decision of the Building Board of Appeals on a denial shall be final and conclusive. Appeal from a decision of the Building Board of Appeals must be made to the District Court of the State of Idaho, in and for the County of Ada. (Ord. 254, 11-3-92)

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

- A. In no event shall the standards for clean burning solid fuel heating appliances, as adopted by rule and regulation by the Building Department and upon approval of this Chapter, allow a weighted average particulate emission greater than:
 - 1. For a new clean burning solid fuel heating appliance with a minimum heat output of less than forty thousand (40,000) BTU per hour and tested pursuant to procedures approved by the Building Department.
 - a. Seven and five-tenths (7.5) grams per hour for a noncatalytic solid fuel heating appliance.

b. Four and one-tenth (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 forty thousand (40,000) BTU per hour shall not exceed an average particulate emission standard equal to the sum of eight and zero-tenths (8.0) grams per hour plus two-tenths (0.2) grams per hour for each one thousand (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. (Ord. 254, 11-3-1992)

5-10-16: APPLICABILITY OF CHAPTER:

Nothing in this chapter is intended to conflict with, supersede, repeal, or affect any other regulations or requirements for the installation or inspection of solid fuel heating appliances, including, but not limited to, those regulations adopted at [title 7, chapter 2](#) of this 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 section [5-2-7](#) of this title. (Ord. 254, 11-3-1992)

5-10-17: PENALTY:

A violation of any of the provisions of this chapter or the failure or omission to perform any duty imposed by the provisions of this chapter is hereby declared unlawful and punishable as a misdemeanor as provided by Idaho Code, section 18-113 as it may from time to time be amended and/or retitled. (Ord. 254, 11-3-1992; amd. Ord. 603, 1-30-2006)