

ARTICLE A. SOLID FUEL HEATING APPLIANCES

4-10A-1: TITLE; OBJECTIVES:

This article shall be known as the *SOLID FUEL HEATING APPLIANCE ORDINANCE OF THE CITY OF GARDEN CITY, IDAHO*, and the same is hereby enacted to read as provided herein. The objective of this article is to protect air quality resources vital to public health, safety and economic future of Garden City by controlling emissions from solid fuel and refuse burning. The provisions of this article shall apply to all areas of Garden City. (Ord. 514, 5-12-1987)

4-10A-2: DEFINITIONS:

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

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

AIR QUALITY INDEX (AQI): A national system used to report local, daily air pollution levels to the public. Monitored air pollution levels are converted to a uniform scale ranging from "0" (good) to "500" (hazardous) with the pollutant that has the highest ambient concentration determining the AQI.

BUILDING: Any structure, dwelling, office, industrial plant, garage, or barn, whether publicly or privately owned or any other structure as defined by the building code as adopted by section [7-1-2](#) of this code.

BURN DOWN: That period of time following an air pollution alert, required for the cessation of combustion within any solid fuel heating appliance, included within this article.

CLEAN BURNING APPLIANCE: A solid fuel heating appliance that the United States environmental protection agency (USEPA) has certified to meet acceptable emission performance standards.

DEQ: Idaho state department of environmental quality.

ECONOMIC HARDSHIP: Fifty percent (50%) or less of Garden City's median income as established by the U.S. department of housing and urban development (HUD).

OPEN BURNING: The combustion of any material not contained in a heating appliance or incinerator.

PARTICULATE MATTER: A. (PM10): Airborne particles, 10u or less in diameter.

B. (PM2.5): Airborne particles 2.5u or less in diameter.

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

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

REFUSE INCINERATOR: Any device designed or operated to reduce the volume of refuse. Natural gas fired pathological incinerators are excluded.

SOLID FUEL: Any form of untreated wood or coal.

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

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

so that usable heat is derived for the interior of a building, including, but not limited to, solid fuel fired cooking stoves, potbellied stoves, Franklin stoves, airtight stoves, fireplace inserts, or combination fuel furnaces or boilers which burn solid fuel. Fireplaces with air to fuel ratios that exceed thirty to one (30:1) air to fuel ratios are exempt.

B. 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 Garden City as calculated by the building department. (Ord. 808, 2-10-2004)

4-10A-3: AIR QUALITY ALERT:

4-10A-3-1: DESIGNATIONS AND CRITERIA:

A. The quality of Garden City's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho state department of environmental quality (DEQ).

B. In order to prevent the existence of air quality that is unhealthful, a wood burning ban will be declared whenever the Idaho state department of environmental quality (DEQ) reports an AQI value of "74" or greater for any pollutant measured by an approved monitor within the Treasure Valley and air stagnation conditions are forecasted to continue for at least twenty four (24) hours. (Ord. 808, 2-10-2004)

4-10A-3-2: SOLID FUEL OR REFUSE BURNING:

No person shall cause or allow:

A. Refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.

B. A refuse incinerator to be operated contrary to design specifications and manufacturers' instructions. (Ord. 808, 2-10-2004)

4-10A-3-3: WOOD BURNING BAN/RESTRICTIONS:

At the onset and during the pendency of a declared wood burning ban, the following additional restrictions apply:

A. No person shall cause or allow, after a three (3) hour "burn down" period, the operation of a solid fuel heating appliance, unless an exemption has been granted by the environmental department manager or his/her designee.

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. (Ord. 808, 2-10-2004)

4-10A-3-4: EXEMPTIONS:

A. The environmental department shall grant exemptions from this article if it is determined by the environmental manager or designee that:

1. A solid fuel heating appliance is the sole source of heat for the building in which it is situated; or
2. An economic hardship exists.

B. Any person denied an exemption under this section shall be provided, at the option of the applicant for exemption, a hearing before the mayor and city council. (Ord. 808, 2-10-2004)

4-10A-4: SOLID FUEL HEATING APPLIANCE INSTALLATION:

A. It shall be unlawful on or after July 1, 1987, for any person in the city to advertise for sale or offer to sell, for installation in any new or existing building, a solid fuel heating appliance which has not been certified as clean burning by the United States environmental protection agency.

B.Environmental department shall maintain a list of appliances certified to be clean burning by the U.S. environmental protection agency. (Ord. 808, 2-10-2004)

4-10A-4-1: DENIAL OF EXEMPTION:

Upon a showing of sufficient cause to believe that grounds exist for denial of an exemption of the rules and regulations of the environmental department, as provided for in this article, the environmental manager or designee may deny said exemption by:

- A.Notifying the applicant by certified mail, personal service, or substituted service of the grounds for said denial and of the applicant's opportunity to appeal to the mayor and city council.
- B.Failure of a person to actually receive a notice sent or served shall not invalidate the denial.
- C.The applicant, upon receiving notice of the denial, may appeal said denial by making application for a hearing before the mayor and city council within ten (10) working days of receipt of above notice. (Ord. 808, 2-10-2004)

4-10A-4-2: DENIAL, HEARING AND DETERMINATION BY MAYOR AND CITY COUNCIL:

The hearing shall be before the mayor and city council. At such hearing the applicant may present evidence, call witnesses and be represented by counsel. Within ten (10) working days after the date of the hearing, the mayor and city council shall either:

- A.Approve the denial by the environmental manager or designee, or
- B.Allow the issuance of the exemption with modifications or conditions as the mayor and council may impose such modifications or conditions to be reasonably related to the use of the exemption. (Ord. 808, 2-10-2004)

4-10A-4-3: APPEAL OF DECISION OF MAYOR AND CITY COUNCIL:

The decision of the mayor and city council on a denial shall be final and conclusive. Appeal from a decision of the mayor and city council must be made to the district court for Ada County. (Ord. 514, 5-12-1987)

4-10A-5: PENALTY:

The violation of any of the provisions of this article or the failure or omission to perform any duty imposed by the provisions of this article is hereby declared unlawful and punishable as a misdemeanor. (Ord. 808, 2-10-2004)

ARTICLE B. OPEN BURNING ²⁵

4-10B-1: PURPOSE:

The purpose and intent of this article is to eliminate all forms of open burning except those for which alternative means of producing a similar public benefit do not exist. Open burning is sought to be eliminated so that air quality and fire safety goals can be achieved. (Ord. 791, 11-12-2002)

4-10B-2: DEFINITIONS:

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

APPROVED INCINERATORS: Any source consisting of a furnace and all appurtenances thereto designed for destruction of refuse by burning. "Open burning" is not considered incineration. For purposes of this article, "approved incinerators" shall mean those burning containers which have been approved by the Idaho department of environmental quality. "Burn barrels" and similar devices are forms of open burning and are not considered to be approved incinerators.

CHIEF: The duly appointed fire chief of the North Ada County fire and rescue district. "Chief" for the purposes of this article may also mean any representative designated by the chief to fulfill any function under this article.

COUNCIL: The city council of the city of Garden City.

FIELD BURNING: The open burning of plant residue grown on the premises, as part of a recognized cropping practice.

FIRE MARSHAL: The duly authorized and acting fire marshal of North Ada County fire and rescue district.

ODOR: The sensation resulting from stimulation of the human sense of smell.

OPEN BURNING: The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney.

PERMIT: A burning permit issued by the North Ada County fire and rescue district pursuant to this article.

PERSON: Any person, corporation, firm, partnership or any federal, state or local governmental entity.

SMOKE: Small gasborne particles resulting from incomplete combustion, consisting predominately, but not exclusively, of carbon and other combustible material. (Ord. 791, 11-12-2002; amd. Ord. 808, 2-10-2004)

4-10B-3: PROHIBITION AGAINST OPEN BURNING:

No persons shall build, ignite or maintain any outdoor fire of any kind or character, or for any purpose whatsoever, except as provided in section [4-10B-4](#) of this article. (Ord. 791, 11-12-2002)

4-10B-4: EXCEPTIONS TO OPEN BURNING PROHIBITION:

Notwithstanding the provisions of section [4-10B-3](#) of this article, the following types of fires shall be allowed:

A. Fires Requiring Permit: The following types of fires shall be allowed by permit only:

1. Field burning, irrigation ditch and fence rows, where there is no alternative cropping practice which provides equivalent benefits.
2. Fires used for control or alleviation of a fire hazard or for weed control when no alternative control method exists.
3. Fires used in the training of organized firefighting personnel.
4. Special fires allowed at the discretion of the North Ada County fire and rescue district. Special fires are fires not falling into subsections A1 and A2 of this section.

B. Fires Allowed Without A Permit: Fires, unless otherwise prohibited, that are used for the preparation of food and campfires under control of a responsible person shall not require a permit hereunder. (Ord. 808, 2-10-2004)

4-10B-5: PERMITS:

Permits for fires allowed to be burned only by permit are to be obtained from the North Ada County fire and rescue district.

A. Contents: All permits must contain the following:

1. Name, address, business and home phone of permittee.
2. Location of proposed burning.
3. Conditions under which burning is to be allowed. The North Ada County fire and rescue district shall develop such conditions as reasonably necessary to provide for safe burning.
4. Signature of issuing officer.

5. Signature of permittee.

B. Term Of Permit: Permits may be issued for any period of time up to one year. They may be suspended by the issuing authority for any area declared an "extreme fire hazard" and for any period of severe air pollution, during a burn ban issued by the department of environmental quality or air pollution dispersal conditions as specified in the permit. (Ord. 808, 2-10-2004)

4-10B-6: APPEALS:

Any person denied a burning permit by the North Ada County fire and rescue district may appeal that decision in writing to the Garden City council. Such appeal must be made within thirty (30) days. The council shall rule on said appeal at its next regularly scheduled council meeting. (Ord. 791, 11-12-2002)

4-10B-7: GENERAL PROHIBITIONS:

A. Notwithstanding the provisions of any section of this article, no person shall allow, suffer, cause or permit the burning of materials which emit toxic contaminants or large volumes of smoke, particulates or odors (such materials are garbage, rubber, plastics, heavy petroleum products, dead animals, lumber, tree stumps, trash, tires, insulated wire, asphalt, tarpaper, treated timbers or lumber, construction materials, dead animals or parts thereof, trade wastes, medical wastes, etc.).

B. Any open burning that would otherwise be allowed under this article, but is determined to be a nuisance, hazard, or source of air pollution, shall be prohibited. (Ord. 808, 2-10-2004)

C. All open burning, even if a valid permit has been issued or no permit is required, is prohibited when the air quality index (AQI) as reported by the Idaho department of environmental quality (DEQ) reaches sixty (60) or higher for any pollutant within the region. It is the responsibility of the holders of valid permits or anyone wishing to ignite a fire for which no permit is required to determine the level of the AQI prior to igniting any fire. The daily AQI may be determined by calling DEQ or visiting the DEQ web page. (Ord. 841-06, 2-13-2006)

4-10B-8: ENFORCEMENT AND PENALTIES:

A. Enforcement: The North Ada County fire and rescue district chief, marshal or his duly authorized representative and any law enforcement or environmental enforcement officer in Garden City shall have the authority to enforce the provisions of this article.

B. Penalties: Each violation of any regulation hereunder or the provisions of any permit issued pursuant hereto shall be a misdemeanor and for each day said violation shall continue, shall constitute a separate offense hereunder.

C.Punishment: Such violation is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding three hundred dollars (\$300.00) or both. (Ord. 791, 11-12-2002)