

MEMORANDUM OF UNDERSTANDING

SOLID FUEL HEATING APPLIANCES

WHEREAS, The City of Oxford ("Oxford"), Idaho is an incorporated city within Franklin, County ("County"), Idaho;

WHEREAS, Oxford is a small municipality with limited resources and without a fully functioning City Council to pass and provide enforcement of necessary ordinances;

WHEREAS, all municipalities within Franklin County have adopted an ordinance relating to regulation of solid fuel heating appliances to assist the Idaho Department of Environmental Quality in generating a State Implementation Plan ("SIP") to deal with the increasing problem of air pollution within the County;

WHEREAS, Oxford desires to be subject to the same requirements relating to solid fuel heating appliances as the other political subdivisions within the County but does not currently have the resources to pass or enforce such requirements;

WHEREAS, the County has adopted an ordinance relating to solid fuel heating appliances within the unincorporated limits of the County and is willing to apply and enforce the requirements of its ordinance in Oxford;

WHEREAS, Oxford desires the County to apply and enforce its ordinance within the Oxford City limits; and

WHEREAS, the parties desire to set forth the terms and conditions of their agreement relating to application and enforcement of the County's ordinance within the Oxford City limits.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do stipulate, agree, covenant and promise as follows:

1. Franklin County Ordinance No. 2012-6-25, known as the SOLID FUEL HEATING APPLIANCE ORDINANCE and attached hereto as Exhibit "A", shall be applicable and enforceable within the incorporated limits of the City of Oxford.

2. The County shall provide enforcement of the attached Ordinance and shall notify the City of Oxford of any enforcement action taken.

3. The City of Oxford shall give its residents reasonable notice of this Agreement and the terms of the Ordinance attached hereto.

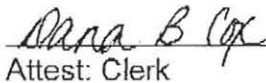
4. Either party may terminate this Agreement upon thirty (30) days written notice to the other party.

DATED October 22, 2012

OXFORD CITY



By: Allen Hatch,
Mayor


Attest: Clerk

DATED October 22, 2012

FRANKLIN COUNTY



By: R. Dirk Bowles,
Chairman, Board of Commissioners
Attest: Shauna Geddes, Clerk

Exhibit "A"

FRANKLIN COUNTY ORDINANCE SOLID FUEL HEATING APPLIANCES

NO. 2012-6-25

AN ORDINANCE OF THE COUNTY OF FRANKLIN, 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.

SECTION 1: AUTHORITY AND PURPOSE:

The purpose of this ordinance is protect air quality resources vital to the public health, safety, and welfare of the County of Franklin by controlling emissions from solid fuel and refuse burning.

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 (PM₁₀/PM_{2.5})" 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, 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 in 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

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. 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 the 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, tree stumps, 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 AND PERMITS*

- A. From the date that this ordinance is effective, no person may sell or offer for sale within Franklin County 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 County. In order for such a permit to be granted, all such appliances shall be listed and certified by the EPA as clean burning appliances. Installations shall be in accordance with the Uniform Fire Code and manufacturer's instructions.
- 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 County may grant exemptions from this ordinance if it is determined that:
 - 1. A solid fuel heating appliance is the sole source of heat for the structure in which 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 \$1,000.00.

DATED THIS 25 day of June, 2012.

Board of Franklin County Commissioners



DIRK BOWLES, Chairman

Attest:



SHAUNA GEDDES, County Clerk