

CHAPTER 6 CLEAN AIR

8-6-1: SHORT TITLE:

This chapter shall be known and cited as the *CITY OF MIDDLETON CLEAN AIR ORDINANCE* . (Ord. 390, 1-18-2006)

8-6-2: 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 Middleton residents and the economic future of the city of Middleton by controlling emissions from solid fuel and refuse burning. This chapter is promulgated under the authority of Idaho Code section 50-302. (Ord. 390, 1-18-2006)

8-6-3: 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 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 as adopted by [title 4, chapter 1](#) of this 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 Idaho 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: Fifty percent (50%) or less of city of Middleton'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.

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

PARTICULATE MATTER (PM10/PM2.5): Any gasborne 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.

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

Explicitly excluded are furnaces, boilers, cookstoves, and open fireplaces.
(Ord. 390, 1-18-2006)

8-6-4: 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 by the IDEQ.
- B. The quality of the city's air shall be designated according to the following table (as may be amended from time to time by the IDEQ):

Air Quality Index (AQI)

Designation	AQI
Good	0 - 50
Moderate	51 - 100
Unhealthy for sensitive groups	101 - 150
Unhealthy	151 - 200
Very unhealthy	201 - 300
Hazardous	301 - 500

C. In order to prevent the existence of air quality that is unhealthful, all burning is prohibited and permits are invalid on days when the AQI as reported by the IDEQ reaches sixty (60) or higher for any air pollutant within the Treasure Valley airshed.

D. 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 IDEQ reports an AQI of seventy four (74) or greater and forecasts air stagnation conditions to continue for at least twenty four (24) hours.

1. 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 and/or the Middleton fire protection district.

2. No person shall cause or allow the operation of a solid waste incinerator.

3. No person shall build, ignite, or maintain any outdoor fire of any kind or character, or for any purpose whatsoever, except as provided within this chapter. (Ord. 390, 1-18-2006)

8-6-5: 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. (Ord. 390, 1-18-2006)

8-6-6: 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 commonly known as a "wood stove".
- 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 chapter, no person shall allow, suffer, cause, or permit the burning of materials which emit toxic contaminants or large volumes of smoke, particulates 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, 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.Any open 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.
- E.Notwithstanding the provisions of any section of this chapter, no person shall allow, suffer, cause or permit the burning of any material when the AQI as reported by the IDEQ reaches sixty (60) or higher for any air pollutant within the Treasure Valley airshed. (Ord. 390, 1-18-2006)

8-6-7: PERMITTED OPEN BURNING:

- A.Open burning of the following is permitted only in accordance with the provisions of this chapter and does not require a permit:
 - 1. Fires used by organized firefighting personnel for the purpose of combating fire or training.
 - 2. Barbecues or other fires used in the preparation of food, provided however, that the fire does not exceed three feet (3') in diameter and two feet (2') in height.
- B.Open burning of the following is permitted only in accordance with the provisions of this chapter and shall require a permit from the Middleton fire protection district:
 - 1. Fires used to keep irrigation ditches and fencerows clear of plant and weed growth.

2. Fires used to dispose of or reduce dry vegetative waste materials, such as, but not limited to, tree branches, gardening waste, weeds, or other dry vegetation, where mulching or other types of disposal are impractical.

C. Open burning for the purposes of agricultural activities is specifically exempt from the requirements of this chapter. However, burn permits are still required for these activities and must be obtained from the Middleton fire protection district prior to the ignition of any fire.

D. Burning permits are available through the Middleton fire protection district. (Ord. 390, 1-18-2006)

8-6-8: EXEMPTIONS FROM RESTRICTIONS:

A. The city and the Middleton fire protection district shall grant exemptions from this chapter if it is determined 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 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, an appeal 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 A1 and A2 of this section.

D. Any agricultural and/or ditch bank burning is specifically exempted from the requirements of this chapter unless the AQI levels as set forth in subsection [8-6-4C](#) of this chapter are reached. Notwithstanding this exemption, a person must still obtain a burn permit from the Middleton fire protection district prior to conducting any agricultural and/or ditch bank burning. (Ord. 390, 1-18-2006)

8-6-9: 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 forty thousand (40,000) BTU per hour and tested pursuant to procedures approved by the building department:
 - a. 7.5 grams per hour for a noncatalytic 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 forty thousand (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 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. 390, 1-18-2006)

8-6-10: 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. (Ord. 390, 1-18-2006)