

Chapter 11

DUST SUPPRESSANTS

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Sec. 11-1. Purpose.

The purpose of this Chapter is to protect air and water quality resources vital to the public health, safety, and economic future of the City by controlling the discharge of petroleum products, by-products, or other petroleum-based products which may find their way into the Moscow aquifer or groundwater, and to reduce the level of air-borne contaminants released by unregulated dust suppressants.

Sec. 11-2. Definitions.

For the purpose of this Chapter, the following terms have the following meaning:

- A. *Applicator* is any person who places or causes to be placed upon the streets or alleys of the City substances for the purpose of suppressing dust.
- B. *Disposal*. Any method by which petroleum, petroleum by-products, and petroleum base products are discharged, deposited, spilled, sprayed, spread, or otherwise dispersed into the environment.
- C. *Dust Suppressants*. Substances approved by the Public Works Director including, but not limited to, Magnesium Chloride and asphalt emulsions.
- D. *Petroleum Product, By-Product, Or Petroleum-Based Product*. Any of the following:
 - 1. any mixture of a solution of hydrocarbons and may be one of a

number of oils including oils which have a paraffin base or a naphthene base;

2. any mixture of a solution of hydrocarbons that is produced as a result of refining, processing, synthesizing, or any other process dealing with petroleum;

3. any lubricating fluid including crankcase oil, power steering fluid, automatic transmission fluid, gearbox lubricants, hydraulic oil, metal working oil, refrigeration oil, compressor oils, and other fluids such as these.

(Ord. 2009-04, 02/02/2009)

Sec. 11-3. Disposal.

Disposal of petroleum products, by-products, and petroleum-based products into sewer systems, drainage systems, surface or groundwaters, and by disposal on land by depositing said materials on the streets and alleys of the City, is hereby prohibited and declared to be unlawful.

Sec. 11-4. Approved List.

The Public Works Director of the City shall provide a list of approved dust suppressants which minimize damage to the environment. Three (3) copies of the list of approved dust suppressants shall be on file with the Clerk and shall be available to the public.

Any person may request that the Public Works Director add a dust suppressant to the approved list. Any person affected by the Public Works Director's decision to place a dust suppressant on the approved list or deny adding a dust suppressant to the list may appeal that decision in accordance with the provisions of Code Section 5-11-5.

Sec. 11-5. Application Denial and Appeal.

- A. Upon a showing of cause to believe that grounds exist to deny the application of any person to add or remove a dust suppressant to the

approved list, the Public Works Director shall notify the applicant by certified mail, or personal service, of the grounds for said denial and of the opportunity to appeal such denial to the Health and Environment Commission. Failure of a person to actually receive a notice sent or severed, shall not invalidate the denial. The applicant, after notice of the denial, may appeal said denial by making a written request for a hearing before the Health and Environment Commission within ten (10) working days of the date of the above notice.

- B. **Hearing and Determination:** The hearing shall be before the Health and Environment Commission. At such hearing the applicant may present evidence, call witnesses called by the City and be represented by counsel. A recorded transcript shall be made. Within twenty (20) working days after the date of the hearing the Health and Environment Commission shall either:
1. approve the action of the Public Works Director; or
 2. allow the application upon such modifications or conditions reasonably related to the use of the application.
- C. **Appeal of Decision:** The decision of the Health and Environment Commission shall be final and conclusive unless an appeal to the Council is made, in writing, within ten (10) days. If appeal is made to the Council, the Council shall hold a de novo hearing consistent with this section within thirty (30) days and shall render its decision within twenty (20) days. Appeal from a Council decision must be made to the District Court for Latah County in accordance with Idaho's Administrative Procedures Act.

Sec. 11-6. Application of Dust Suppressants.

The use or application in the City by any person or any dust suppressant not

approved by the Public Works Director is hereby prohibited and declared unlawful.

Sec. 11-7. Violations; Penalties.

Any violation of a provision of this chapter shall be a misdemeanor. Any person(s) convicted of a violation of this Chapter shall be fined pursuant to this Code and the Idaho Code.

(Ord. 90-07, 3/26/90)