

Chapter 14

SOLID FUEL HEATING APPLIANCES

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Sec. 14-1. Purpose.

To protect air quality resources vital to public health, safety, and the economic future of Moscow by controlling emissions from solid fuel and refuse burning.

Sec. 14-2. Definitions.

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

- A. *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.
- B. *Building.* Any structure, dwelling, office, industrial plant, garage, or barn, whether public or privately owned or any other structure as defined by the Uniform Building Code as adopted by the City.
- C. *Clean Burning Appliance.* A solid fuel heating appliance that the Inspector has determined to meet emission performance standards.

- D. *Economic Hardship.* The hardship which exists when the income of the applicant/resident is fifty percent (50%) or less of Moscow's median income as established by the U.S. Department of Housing and Urban Development (HUD).
- E. *Inspector.* The Building Inspector of the City or the Building Inspector's designee.
- F. *Open Burning.* The combustion of any material not contained in a heating appliance or incinerator.
- G. *Particulate Matter.* Gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.
- H. *Refuse.* All solid wastes, garbage and rubbish, including but not limited to, cardboard, plastic, rubber, Styrofoam, petroleum products, food stuff, Christmas trees, yard debris, or chemically treated wood.
- I. *Refuse Incinerator.* Any device designed or operated to reduce the volume of refuse. Natural gas fired pathological incinerators are excluded.
- J. *Solid Fuel.* Any form of wood or coal used for fuel.
- K. *Solid Fuel Heating Appliance.* A device designed for solid fuel combustion so that usable heat is derived for the interior of a building, including, but not limited to solid fuel-fired cooking stoves, pot-bellied stoves, Franklin stoves, air-tight 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.

Sec. 14-3. Air Quality Designations and Alert Criteria.

- A. The quality of the City's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho State Air Quality Bureau.
- B. The quality of the City's air shall be

designated according to the following table:

Health effect designation	PM ₁₀ levels during 24-hour period, measured in micrograms per cubic meter
Good	0 - 75
Moderate	76 - 150
Unhealthful	151 - 350
Very Unhealthful	351 - 420
Hazardous	Above 420

- C. In order to prevent the existence of air quality that is unhealthful, an air pollution alert will be declared whenever levels of PM₁₀ particulate exceed one hundred ten (110) micrograms per cubic meter (ug/m³) for at least a twenty-four (24) hour period.
- D. Any air pollution alert shall continue until particulate levels fall below one hundred ten (110) micrograms per cubic meter (ug/3) for twenty-four (24) hours and until air stagnation conditions cease to exist. Air pollution alerts and "alert" terminations shall be issued by the City agency or agencies designated to monitor the air conditions and issue alerts.
- E. Except as exempted below in Code Section 7-14-6, during an air pollution alert no person or entity shall operate fireplaces, a solid fuel heating appliance, refuse incinerator, or conduct open burning.

Sec. 14-4. Public Notification.

Whenever air pollution alert conditions are met, local print, radio, and television news media will be notified. It will be requested that announcements of the existence of an air pollution alert be made by the news media during regularly scheduled broadcasts and in all editions of the official newspaper of the City. Similar announcements shall be made upon termination of an air pollution alert.

Sec. 14-5. Burning Solid Fuel or Refuse.

- A. It shall be unlawful to cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.
- B. It shall be unlawful to cause or allow a refuse incinerator or solid fuel heating appliance to be operated contrary to design specifications and manufacturers' instructions.

Sec. 14-6. Air Quality Alert Exemptions.

- A. The Inspector shall grant exemptions from this Chapter if it is determined by the Inspector that:
 - 1. A solid fuel heating appliance is the sole source of heat for the building in which it is situated; and the solid fuel heating appliance user suffers from economic hardship as defined in this Chapter; or
 - 2. The solid fuel heating appliance is listed by the Building Department as a clean burning appliance. The clean burning appliance exception shall be valid only so long as the clean burning appliance is maintained in good condition and continues to operate in conformance with the standards for a clean burning appliance.
- B. Any person denied an exemption under this chapter shall be provided, at the option of the applicant for exemption, a hearing before the Board of Appeals as provided for in this Chapter.
- C. Any building constructed after the effective date of this Chapter shall not be eligible for an exemption under Code Subsection (A)(1) above.

Sec. 14-7. Solid Fuel Heating Appliance Permits.

- A. It shall be unlawful for any person in the City to install a solid fuel heating appliance in any new or existing structure until first procuring from the City a solid fuel heating appliance permit.
- B. It shall be unlawful on or after the effective date of this Chapter for any person in the City to: offer to sell or

sell, for installation in any new or existing building, a solid fuel heating appliance which has not been certified as clean burning by the Inspector. The Inspector may require such proof as the Inspector deems necessary to demonstrate that the appliance complies with the City standards.

Sec. 14-8. Permit Denial and Appeal.

A. Upon a showing of sufficient cause to believe that grounds exist for denial of a permit or request for exemption from the rules and regulations of the Inspector, as provided for in this Chapter, the Inspector may deny said permit or request for exemption by:

1. Notifying the applicant by certified mail, or personal service, or service at the premises where the permit is sought, of the grounds for said denial and of the applicant's opportunity to appeal said denial to the Board of Appeals.
2. Failure of a person to actually receive a notice sent or served, shall not invalidate the denial.
3. The applicant, after notice of the denial, may appeal said denial by making application for a hearing before the Board of Appeals within ten (10) working days of the date of the above notice.

B. Denial Hearing and Determination by the Board: The hearing shall be before the Board of Appeals. At such hearing the applicant may present evidence, call witnesses, direct questions to witnesses called by the City, and be represented by counsel. A recorded transcript shall be maintained by the Board of Appeals. Within ten (10) working days after the date of the hearing, the Board of Appeals shall either:

1. Approve the denial by the Inspector, or
2. Allow the issuance of the permit or exemption with modifications or conditions as the Inspector may impose, such modifications or conditions to be reasonably related to

the use of the permit or exemption.

- C. Appeal of Decision of Board of Appeals: The decision of the Board of Appeals on a denial shall be final and conclusive. Appeal from a decision of the Board of Appeals must be made to the District Court for Latah County in accordance with the Idaho Administrative Procedures Act.
- D. Powers and Duties: The Board of Appeals shall hear and decide all appeals from a denial by the Inspector of a solid fuel heating appliance permit as is required by this Chapter. The Board of Appeals shall recommend to the Inspector inspection and enforcement criteria associated with this Chapter.

Sec. 14-9. 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 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/hr.

- a. Eight and one-half (8.5) grams per hour for a non-catalytic solid fuel heating appliance.

- b. Five and one-half (5.5) grams per hour for a catalyst-equipped solid fuel heating appliance.

2. Clean burning solid heating appliances with a minimum heat output of greater than forty thousand (40,000) BTU/hr. shall not exceed an average particulate emission standard equal to the sum of eight (8.0) grams per hour plus two-tenths (0.2) grams per hour for each one thousand (1,000) BTU per hour heat output.

- B. Any person denied a clean burning solid fuel heating appliance permit shall have a right to a hearing pursuant to this Chapter.
- C. The City shall maintain a list of

appliances certified to be clean burning by the Inspector.

Sec. 14-10. Civil Nuisance.

The operation of heating appliance or incinerator in a manner which causes "air pollution" having a harmful effect upon any adjacent property owner or resident is hereby declared to be a public nuisance, even if the appliance complies with this Chapter and is being properly operated. An affected person shall have the right to bring a civil action in the district to have such offending use declared a nuisance. The court may take such action as it deems necessary to abate such nuisance, including the use of a restraining order or injunction, the payment of damages to the injured party, and/or a requirement that a bond be posted which would be forfeited should the offending party fail to abate the nuisance. For purposes of this Section the harmful effect must be more than a trivial or an aesthetic effect.

Sec. 14-11. Violation; Penalties.

- A. The violation of any provision of this Chapter, or the failure or omission to perform any duty imposed by the provisions of this Chapter is hereby declared unlawful and a misdemeanor.
- B. Any person convicted of a violation of this Chapter shall be fined pursuant to this Code and the Idaho Code.