

Attachment 3

Town of Mammoth Lakes Municipal Code Chapter 8.30 Particulate Emissions Regulations November 2013

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8.30.010 - Purpose.

The purpose of this chapter is to improve and maintain the level of air quality of the town so as to protect and enhance the health of its citizens by controlling the emissions of particulate matter into the air of the community of Mammoth Lakes.

~~(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-04 § 1(part), 1990)~~

8.30.020 - Definitions.

For the purpose of this chapter:

A. "EPA" means the United States Environmental Protection Agency.

B. "EPA-certified appliance" means any wood or other solid fuel burning appliance ~~utilized~~ used for space or water heating or cooking that meets the Phase II performance and emission standards of the Environmental Protection Agency as set forth in Part 60, Title 40, subpart AAA code of Federal Regulations, February 26, 1988. ~~Phase I appliances must meet the emission requirements of no more than 5.5 grams per hour particulate matter emission for catalytic and 8.5 grams per hour for noncatalytic appliances. Phase II requirements are 4.1 grams per hour particulate emission for catalytic appliances and 7.5 grams per hour respectively for noncatalytic appliances.~~ Pellet fueled wood heaters and EPA Phase II qualified fireplaces and fireplace retrofit devices shall be considered as meeting Phase II requirements. ~~For existing appliances,~~

~~Oregon Department of Environmental Quality (DEQ) certification shall be equivalent to EPA certification.~~ All other solid fuel burning appliances, including fireplaces, shall be considered noncertified.

C. "Opacity" means the amount of light obscured by particulate matter in the air as may be measured using EPA Method 9 (40 CFR 60, App. A).

D. "Pellet fueled wood heater" means any heater designed to heat the interior of a building that operates on pelletized wood and has an automatic feed.

~~DE.~~ "Permanently inoperable" means modified in such a way that the appliance can no longer function as a solid fuel heater appliance or easily be remodified to function as a solid fuel heater appliance. Permanent cConversion to other fuels, such as gas, is permitted.

~~EE.~~ "Solid fuel burning appliance, heater or device" means any fireplace, wood burning heater or coal stove or structure that burns wood, coal or any other nongaseous or nonliquid fuels, or any similar device burning any solid fuel used for aesthetic, water heating, or space heating purposes.

~~(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-04 § 1(part), 1990)~~

8.30.030 - Standards for regulation of solid fuel burning appliances.

A. ~~After December 7, 1990 (the effective date of the ordinance codified in this chapter), no solid fuel burning appliance shall be permitted to be installed within the town unless the device appliance is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification. This shall not prohibit retailers from selling, prior to January 1, 1991, stock on hand as of the date of the ordinance codified in this chapter, as long as that stock meets EPA certification for Phase I and the seller can document through invoices or other means that the device was acquired prior to the adoption the ordinance codified in this chapter. After January 1, 1991, all appliances installed in the town must meet EPA Phase II certification.~~

B. The restrictions of this section shall apply to all solid fuel burning devices appliances including unregulated fireplaces. Exceptions will be made for fireplaces supplied with gas and fitted with artificial logs that cannot be used for wood burning, and for one fireplace located in a hotel/motel lobby or similar common area lobby or in the common area of a condominium project. Said fireplaces shall be subject to burning curtailment episodes as administered under Section 8.30.090

C. For the purposes of enforcing this chapter, the Ttown shall keep a record of all certified appliances installed in Mammoth Lakes in accordance with this chapter and of properties which have been determined to conform to the requirements of this chapter. ~~(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-04 § 1(part), 1990)~~

8.30.040 - ~~Density limitations~~Limitations on number of appliances.

A. Single Family Dwellings. No more than one EPA-certified solid fuel appliance may be installed in any new single family detached dwelling or nonresidential property. Existing properties with one or more existing solid fuel burning appliances may not install additional solid fuel burning appliances. One pellet fueled wood heater per dwelling shall be allowed in addition to the one EPA-certified appliance~~excepted from the provisions of this subsection.~~

B. Multi-Unit Residential Developments. No solid fuel burning appliance, ~~other than a single pellet fueled appliance per dwelling~~ may be installed in any new multi-unit residential development; however, ~~one pellet fueled wood heater per dwelling may be installed in a multi-unit residential development.~~

C. Commercial or Lodging Developments. No solid fuel ~~heating~~burning appliance device shall be installed in any new commercial or lodging development project.

~~BD.~~ Solid fuel burning appliances shall not be considered to be the primary form of heat in any new construction.

~~CE.~~ All ~~No~~ new and replacement appliances shall ~~not~~ be installed without first obtaining a building permit from the Town. All installations shall require an inspection and approval by the building division prior to operation.

~~DE.~~ Verification of compliance ~~may~~ shall be certified by an inspector of the Town's building division, ~~by an individual certified by the Wood Heating Education and Research Foundation for the installation of solid fuel appliances, or by individuals possessing equivalent certification.~~ The inspector of record shall verify in writing that the appliance complies with the required emissions standards and shall file the certification with the town. ~~Inspectors independent of the town shall verify their qualifications with the town building division before appliance certification will be accepted by the town.~~
(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-04 § 1(part), 1990)

8.30.050 - Replacement of noncertified appliances upon sale of property.

A. Prior to the completion of the sale or transfer of a majority interest in any developed real property within the town, all existing noncertified solid fuel burning appliances shall be replaced, removed, or rendered permanently inoperable. If the buyer assumes responsibility, ~~in writing on a form approved by the air quality manager,~~ for appliance replacement or removal in writing on a form approved by the Community and Economic Development Director, the deadline for such action shall be extended to ~~sixty~~ 60 calendar days from the date of completion of the sale or transfer. The buyer shall contact the building division no later than 60 calendar days from the date of completion of sale to schedule an inspection.

B. The building department division, or a qualified inspector as designated by the building department, shall inspect the appliance(s) in question to assure that they meet the requirements of this chapter. Within five working days from the date of the inspection, the building department division shall issue a written certification of compliance or noncompliance for the affected property. If the inspection reveals that the subject property does not comply with the requirements of this chapter, all noncomplying solid fuel burning appliances shall be replaced, removed, or rendered permanently inoperable. In this event, reinspection shall be required prior to certification of compliance.

C. No additional building permit shall be issued for enlargement an increase in habitable area of a property structure that has not complied with the requirements of this section.

D. Existing appliances certified as meeting EPA Phase I requirements or Oregon Department of Environmental Quality requirements are not subject to the replacement requirements.

EB. Pursuant to Section 1102.6(a) of the California Civil Code, sellers of residential real property shall disclose to purchasers of such property the provisions of this chapter. This disclosure obligation shall be satisfied by providing to each purchaser a "Local Option Real Estate Transfer Disclosure Statement" specified by the Town and by providing a copy of this chapter.

EC. If developed real property is to be sold which does not contain a solid fuel burning appliance, a form approved by the building department division, containing the notarized signatures of the seller, the buyer, and the listing real estate agent attesting to the absence of any fuel device, may be accepted in lieu of an inspection. A written exemption shall be issued by the building department division.

ED. No appliance(s) removed under the provisions of this section may be replaced except as provided by this chapter.

DE. This section shall not be applicable to sales or other transfers of real property which have been completed prior to February 15, 1991, nor shall this section apply to National Forest permittees located west of Old Mammoth Road in Sections 4 and 9 of Township 4 S., Range 27 E., MDBM, or National Forest permittees located above eight thousand five hundred 8,500 feet elevation above sea level.
(Ord. 91-14 § 1 Exh. A(part), 1991: Ord. 90-05 § 1, 1990: Ord. 90-04 § 1(part), 1990)

8.30.060—Solid fuel burning appliance replacement schedule.

The town shall review emissions levels by January 1, 1993. Should emissions not have reached attainment of the NAAQS, as determined by monitoring by the Great Basin Air Pollution Control District or the town, by that January 1, 1993, all noncertified solid fuel appliances within the town shall be replaced by November 1, 1994.
(Ord. 91-14 § 1 Exh. A(part), 1991: Ord. 90-04 § 1(part), 1990)

8.30.060 - Opacity limits.

No person shall cause or permit emissions from a solid fuel burning appliance to be readily visible, for a period or periods aggregating more than three minutes in any one-hour period. Emissions created during a ~~fifteen~~ 15 minute start-up period are exempt from this regulation. Readily visible emissions means smoke easily seen when viewed against any contrasting background including, but not limited to native conifers or a blue sky and may be equated with an opacity limit of ~~twenty~~ 20 percent or greater as designated by the shade No. 1 on the Ringelmann Chart.

(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-04 § 1(part), 1990)

8.30.070 - Prohibited fuels.

Burning of any fuels or materials other than the following fuels within the town shall be in violation of ~~the ordinance codified in this chapter:~~

A. Untreated wood;

B. Uncolored paper, including newspaper; and

C. Manufactured logs, pellets, and similar manufactured fuels.

(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-04 § 1(part), 1990)

8.30.080 - Mandatory curtailment.

A. The ~~T~~town council ~~M~~manager shall appoint an air quality manager. The duty of the air quality manager shall be to determine when curtailment of solid fuel combustion in the town is necessary, and to notify the community that curtailment is required, and to make such other determinations as are necessary to carry out the objectives of this chapter.

B. Determination that curtailment is required shall be made when PM-10 levels have reached ~~one hundred thirty (130)~~ micrograms/m³ or when adverse meteorological conditions are predicted to persist. Should it be determined that ~~one hundred thirty (130)~~ micrograms/m³ is not a low enough threshold to prevent the ~~T~~town from violating the National Ambient Air Quality Standard for ~~twenty-four~~ 24 hours (NAAQS, 24 hours), that threshold may be lowered by resolution of the ~~T~~town ~~C~~council ~~of the town.~~

C. Upon the determination that curtailment is required, the air quality manager shall contact all radio stations and television stations in Mammoth Lakes and have them broadcast that it is required that there be no wood or other solid fuel burning. The air quality manager shall also record a notice on a telephone line dedicated to this purpose and post a notice in the ~~T~~town offices. The air quality manager may utilize additional methods of communication to effectively inform Mammoth Lakes' residents and visitors

of burning restrictions. Upon such notice, all wood and other solid fuel combustion shall cease.

D. All dwelling units being rented on a transient basis which contain a ~~noncertified~~ solid fuel burning appliance shall post, in a conspicuous location near the appliance, a notice indicating that no-burn days may be called and informing the tenants about sources of information on no-burn days.

E. All persons renting units ~~for transient occupancy~~ which contain a solid fuel burning appliance shall inform their tenants that solid fuel burning may be prohibited on certain days and that the person signing the rental agreement shall be responsible for assuring that the no-burn requirements are obeyed during the rental period identified on the rental agreement.

F. For residences where a solid fuel burning appliance is the sole means of heat, these curtailment regulations do not apply. For a residence to be considered as having solid fuel as its sole source of heat, the owner must apply to the building ~~department~~ division for an exemption and the department must inspect the residence and certify that, ~~in fact,~~ no other adequate source of heat is available to the structure. Adequate source shall mean that the alternate source of heat cannot produce sufficient heat for the residence without causing a hazard. A written exemption will then be granted. Where an adequate alternate source of heat is determined to have been removed from the structure in violation of the building codes, a sole source exemption shall not be issued. Sole source exemptions shall not be granted for nonresidential uses. ~~The sole source exemptions shall expire one year from the date that the town adopts a financing or incentive program for replacement on noncertified appliances or on November 1, 1994, whichever date is earlier.~~

~~G. Households with very low income levels, as defined by the Department of Housing and Urban Development, may apply to the air quality manager for exemption from no-burn days. The low income exemptions shall expire one year from the date that the town adopts a financing or incentive program for replacement of noncertified appliances or on November 1, 1994, whichever date is earlier.~~

~~HG. Appliances certified as meeting the emission requirements of the EPA as defined in Section 8.30.020(B) and pPellet fueled wood heaters shall not be subject to the provisions of this section. Should future monitoring show that exempting certified appliances results in violations of the NAAQS, 24 hour, the town shall implement a total ban on solid fuel burning based upon the thresholds identified above.~~

~~HI. This section shall not apply to National Forest permittees located west of Old Mammoth Road, in Sections 4 and 9 of Township 4 S., Range 27 E., MDBM, or National Forest permittees located above eight thousand five hundred~~ 8,500 feet elevation above sea level.

~~(Ord. 91-14 § 1 Exh. A(part), 1991; Ord. 90-07 § 1 (part), 1990; Ord. 90-04 § 1(part), 1990)~~

8.30.090 - Pollution reduction education programs.

The ~~T~~town ~~M~~manager or his/her designee is directed to undertake such public education programs as are reasonably calculated to reduce particulate air pollution within the town, including particulate emissions from sources other than solid fuel burning ~~devices~~appliances. In addition to the notification measures listed in Section 8.30.080.C, the public education programs shall include additional measures to inform the public of burning curtailment requirements.

~~(Ord. 91-14 § 1 Exh. A(part), 1991: Ord. 90-04 § 1(part), 1990)~~

8.30.100 - Road dust reduction measures.

A. ~~The director of public works~~Public Works Director ~~is directed to undertake~~shall implement a vacuum street sweeping program to reduce PM-10 emissions resulting from excessive accumulations of cinders and dirt.

B. The ~~T~~town shall, in its review of proposed development projects, incorporate such measures which reduce projected total vehicle miles traveled. Examples of such measures include, but are not limited to, circulation system improvements, mass transit facilities, private shuttles, and design and location of facilities to encourage pedestrian circulation. The goal of the ~~T~~town's review shall be to limit peak vehicle miles traveled to ~~one hundred six thousand six hundred~~seventy nine thousand seven hundred eight (179,708) on any given day on the roadway segments evaluated in the Mammoth Lakes Vehicle Miles Traveled Analysis (LSC, August, 2012).

~~(Ord. 91-14 § 1 Exh. A(part), 1991: Ord. 90-04 § 1(part), 1990)~~

8.30.110 - Fees.

A fee shall be charged for the inspection and permitting services of the ~~T~~town. The fee shall be established in the ~~T~~town master fee schedule.

~~(Ord. 91-14 § 1 Exh. A(part), 1991: Ord. 90-04 § 1(part), 1990)~~

8.30.120 - Penalties.

A. It is illegal to violate any requirements of this chapter. Any owner of any property which is in violation of the requirements of this chapter shall be guilty of an infraction. Any person operating a solid fuel burning appliance in violation of this chapter is guilty of an infraction. The third violation by the same person within a ~~twelve~~12-month period shall constitute a misdemeanor. Prosecution of any violation of Ssubsection 8.30.080, ~~(E) and (G)~~, relating to exemptions from curtailment, may be against the property owner, the occupant, or both.

B. Violation of any portion of this chapter may result in assessment of civil penalties against the property and against an individual person or persons as follows in accordance with Chapter 1.12, General Penalty.:

- ~~1. First violation within a twelve-month period, fifty dollars;~~
- ~~2. Second violation within a twelve-month period, one hundred dollars;~~
- ~~3. Third violation within a twelve-month period, two hundred fifty dollars;~~
- ~~4. Four or more violations within a twelve-month period, five hundred dollars per violation.~~

C. Each and every day a violation exists is a new and separate violation. Right to appeal, hearings, and collection of civil penalties shall be pursuant to the procedures set forth in Chapter 78.20, Nuisances, ~~of this code.~~

D. Nothing in this section shall prevent the Town from pursuing criminal penalties or using any other means legally available to it in addressing violations of this chapter.

E. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the air quality manager or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which violates the provisions of this chapter, the air quality manager or ~~his~~ authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the air quality manager by this code; provided, that if such building or premises be occupied, he/she shall present proper credentials and request entry; and if such building or premises be unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, or if the owner or person having charge or control of the building or premises cannot be contacted, the air quality manager or ~~his~~ authorized representative shall have recourse to every remedy provided by law to secure entry.