

Town of Mammoth Lakes
Municipal Code
Chapter 8.30
Particulate Emissions Regulations

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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.

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 for space or water heating or cooking that meets the Phase II performance and emission standards of the Environmental Protection Agency. Phase II requirements are 4.1 grams per hour particulate emission for catalytic appliances and 7.5 grams per hour 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. All other solid fuel burning appliances 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.

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

F. "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.

8.30.030 - Standards for regulation of solid fuel burning appliances.

A. No solid fuel burning appliance shall be permitted to be installed within the town unless the appliance is certified as meeting the emission requirements of the U.S. Environmental Protection Agency (EPA) for Phase II certification. However, residential properties may be permitted one outdoor wood fire pit for recreational or cooking purposes provided that a permit is obtained from the Mammoth Lakes Fire Protection District (MLFPD) and all MLFPD requirements are adhered to. These fire pits are not required to be EPA Phase II certified. Use of these fire pits will be suspended by the MLFPD during periods of heightened fire danger, and these fire pits are subject to Section 8.30.080, Mandatory Curtailment. Outdoor wood fire pits are not allowed for non-residential properties unless: (i) associated with a special event for which a special event permit has been issued by the Town; and (ii) no voluntary or mandatory no-burn restrictions are in effect or are anticipated to be in effect.

B. The restrictions of this section shall apply to all solid fuel burning appliances including unregulated fireplaces.

C. For the purposes of enforcing this chapter, the Town 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.

8.30.040 - Limitations on number of appliances.

A. Single Family Dwellings. No more than one EPA-certified appliance may be installed in any new single family detached dwelling. 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.

B. Multi-Unit Residential Developments. No solid fuel burning appliance 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. Existing properties with one

or more existing solid fuel burning appliances may not install additional solid fuel burning appliances. Existing properties with no existing solid fuel appliances may install only one pellet fueled wood heater per dwelling.

C. Commercial or Lodging Developments. No solid fuel burning appliance shall be installed in any new commercial or lodging development project. Existing properties with one or more existing solid fuel burning appliances may not install additional solid fuel burning appliances. Existing properties with no existing solid fuel appliances may install only one EPA-certified appliance or one pellet fueled wood heater.

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

E. No new and replacement appliances shall 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.

F. Verification of compliance shall be certified by an inspector of the Town's building division.

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 for appliance replacement or removal in writing on a form approved by the Community and Economic Development Director, the deadline for submitting a fully completed building permit application to the Town of Mammoth Lakes Building Department shall be extended to 90 calendar days from the date of completion of the sale or transfer. The Department may, in its sole discretion, provide one 30 calendar day extension of time for the filing of the building permit application upon request from the buyer. Notwithstanding any other ordinance or the usual duration of a building permit, the work authorized by the building permit shall be commenced within 180 days from the date of the permit's issuance, and shall be completed within one year of the permit's issuance. Extensions of time for final sign off of the building permit for justifiable cause may be granted according to the provisions of the California Building Codes. After the building permit is issued and before the expiration date of the building permit the buyer shall contact the building division to schedule an inspection according to the provisions of the California Building Codes. The buyer shall agree in writing not to use or operate the existing non-compliant solid fuel burning appliance. All proposed construction shall comply with the provisions of the California Building Codes and Town ordinances, and the buyer shall proceed with the purchase at their own risk and without assurance that the proposed work will be approved.

B. The building division 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 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 building permit shall be issued for an increase in habitable area of a 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.

E. 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.

F. If developed real property is to be sold which does not contain a solid fuel burning appliance, a form approved by the building 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 division.

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

H. This section shall not be applicable 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 8,500 feet elevation above sea level.

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 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 20 percent or greater as designated by the shade No. 1 on the Ringelmann Chart.

8.30.070 - Prohibited fuels.

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

- A. Untreated wood;
- B. Uncolored paper, including newspaper; and
- C. Manufactured logs, pellets, and similar manufactured fuels.

8.30.080 - Mandatory curtailment.

A. The Town 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, notify the community that curtailment is required, and 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 130 micrograms/m³ or when adverse meteorological conditions are predicted to persist. Should it be determined that 130 micrograms/m³ is not a low enough threshold to prevent the Town from violating the National Ambient Air Quality Standard for 24 hours (NAAQS, 24 hours), that threshold may be lowered by resolution of the Town Council.

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 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 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 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 division for an exemption and the department must inspect the residence and certify that 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.

G. Pellet fueled heaters shall not be subject to the provisions of this section.

H. 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 8,500 feet elevation above sea level.

8.30.090 - Pollution reduction education programs.

The Town 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 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.

8.30.100 - Road dust reduction measures.

A. The Public Works Director shall implement a vacuum street sweeping program to reduce PM-10 emissions resulting from excessive accumulations of cinders and dirt.

B. The Town shall, in its review of proposed development projects, incorporate 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 Town's review shall be to limit peak vehicle miles traveled to 179,708 on any given day on the roadway segments evaluated in the Mammoth Lakes Vehicle Miles Traveled Analysis (LSC, August, 2012).

8.30.110 - Fees.

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

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 12 month period shall constitute a misdemeanor. Prosecution of any violation of Subsection 8.30.080.E, 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 in accordance with Chapter 1.12, General Penalty.

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 8.20, Nuisances.

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 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 authorized representative shall have recourse to every remedy provided by law to secure entry.