

**ORDINANCE NUMBER 13-**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF  
MAMMOTH LAKES, COUNTY OF MONO, STATE OF CALIFORNIA,  
REPEALING AND RESTATING CHAPTER 8.30 OF THE TOWN OF  
MAMMOTH LAKES MUNICIPAL CODE RELATED TO  
PARTICULATE EMISSIONS REGULATIONS**

**WHEREAS**, in 1987, the U.S. Environmental Protection Agency found that Mammoth Lakes levels of airborne particulate pollutants exceeded the National Ambient Air Quality Standard for particulate matter smaller than 10 microns (PM-10); and

**WHEREAS**, in November of 1990, the Town of Mammoth Lakes adopted an Air Quality Management Plan to address the high levels of PM-10 and adopted Chapter 8.30 of the Municipal Code to implement that plan; and

**WHEREAS**, the Town has attained the National Ambient Air Quality Standard (NAAQS) for PM-10 through implementation of Chapter 8.30; and

**WHEREAS**, the Town has revised the 1990 Air Quality Management Plan and has adopted that revision entitled the Air Quality Maintenance Plan and PM-10 Redesignation Request; and

**WHEREAS**, the Air Quality Maintenance Plan and PM-10 Redesignation Request necessitates revisions to Municipal Code Chapter 8.30; and

**WHEREAS**, the Town Council has determined that the public health, safety, and welfare of the residents of the Town will be promoted and the environmental quality of the Town and surrounding areas will be preserved and maintained through these amendments to Chapter 8.30; and

**WHEREAS**, all legal prerequisites for the adoption of this Ordinance have occurred;

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Recitals. The above recitals are all true and correct.

**Section 2.** Environmental Review. The Town Council makes the following findings and takes the following actions pursuant to the requirements of the California Environmental Quality Act (CEQA):

CEQA Findings: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308: Actions by Regulatory Agencies for Protection of the Environment. Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures

for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

CEQA Action: The Town Council directs staff to file a Notice of Exemption.

**Section 3.** Findings. The Town Council HEREBY FINDS AND DETERMINES based on the information presented herewith:

1. That the revisions to the Particulate Emissions Regulations are consistent with and implement multiple components of the Vision for the Town of Mammoth Lakes as stated in the Town of Mammoth Lakes General Plan 2007, specifically, the overall vision of providing "...the very highest quality of life for our residents and the highest quality of experience for our visitors" and environmental stewardship, attractive ambiance, and protection of the natural environment.
2. That the revisions to the Particulate Emissions Regulations address Goal R.10 of the General Plan to "Protect health of community residents by assuring that the town of Mammoth Lakes remains in compliance with or improves compliance with air quality standards."
3. That the revisions to the Particulate Emissions Regulations are necessary to demonstrate maintenance of attainment of the NAAQS for PM-10.

**Section 4.** Approval. Based on the findings contained in this Ordinance and all other evidence in the record of proceedings in this matter, the Town Council hereby repeals and restates Chapter 8.30 of the Mammoth Lakes Municipal Code in its entirety to read as shown in attached Exhibit "A," which is incorporated herein by this reference.

**Section 5.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof, is held invalid or unconstitutional, then such decision shall not affect the validity of the remaining sections or portions of this Ordinance or part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**Section 6.** Effective Date. The Mayor shall sign and the Town Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

***ADOPTED, SIGNED and APPROVED*** this 20th day of November, 2013.

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Rick Wood, Mayor

ATTEST:

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JAMIE GRAY, Town Clerk

Exhibit "A"  
**Town of Mammoth Lakes**  
**Municipal Code**  
**Chapter 8.30**  
**Particulate Emissions Regulations**

*Sections:*

8.30.010 - Purpose.

8.30.020 - Definitions.

8.30.030 - Standards for regulation of solid fuel burning appliances.

8.30.040 - Limitations on number of appliances.

8.30.050 - Replacement of noncertified appliances upon sale of property.

8.30.060 - Opacity limits.

8.30.070 - Prohibited fuels.

8.30.080 - Mandatory curtailment.

8.30.090 - Pollution reduction education programs.

8.30.100 - Road dust reduction measures.

8.30.110 - Fees.

8.30.120 - Penalties.

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.

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.

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

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 such action shall be extended to 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 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/m<sup>3</sup> or when adverse meteorological conditions are predicted to persist. Should it be determined that 130 micrograms/m<sup>3</sup> 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.