

## ORDINANCE 2013-05

### AN ORDINANCE REPEALING AND REENACTING CHAPTER 8.14 OF THE FRUITA MUNICIPAL CODE CONCERNING WOOD STOVE REGULATIONS

**WHEREAS**, staff has been reviewing the Municipal Code to identify regulations in order to follow current EPA regulations and combine efforts in Mesa County to protect our air quality to promote the health, safety and welfare of the community; and

**WHEREAS**, there is a need to clarify the alert system for “Burn” and “No Burn” days; and

**WHEREAS**, the City of Fruita, is now proposing to repeal and reenact Chapter 14 of Title 8 - Wood Stove Regulations of the Municipal Code

### NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:

**Section 1.** Section 8.14.010 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

#### **Chapter 8.14** **Wood Heating Appliance Regulations**

#### **8.14.010 DEFINITIONS:**

- A. AQI- Air Quality Index- An index for reporting daily air quality. It tells citizens how clean or polluted the air is, and what associated health effects might be a concern. The AQI focuses on health effects citizens may experience within a few hours or days after breathing polluted air. The AQI is determined by the Colorado Department of Public Health and Environment.
- B. “Good” AQI- 24-hour value for AQI ranges between 0 – 50. Air quality is considered satisfactory, and air pollution poses little or no risk.
- C. “Moderate” AQI – 24-hour value for AQI ranges between 51 – 100. Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people. For example, people who are usually sensitive to ozone may experience respiratory symptoms.
- D. “Unhealthy-for-sensitive-groups” AQI- 24-hour value for AQI ranges between 101-150. Although the general public is not likely to be affected at this AQI range, exposure to ozone is a greater risk for people with lung disease, older adults and children, whereas exposure to the presence of particles in the air also effects those persons with heart disease as well as the other groups .

- E. “Unhealthy” AQI- 24-hour value for AQI ranges between 151-200. Everyone may begin to experience some adverse health effects, and members of the sensitive groups may experience more serious effects.
- F. “No Burn” Day- Forecast issued by the Mesa County Health Department when “Moderate”, “Unhealthy-for-sensitive-groups” or “Unhealthy” AQIs are forecast, in combination with monitored PM10 and PM2.5 values and visibility conditions warrant, during the Western Slope Air Watch season. PM10 is a standard measurement of Particulate Matter includes particles with a diameter of 10 micrometers or less (0.0004 inches or one-seventh the width of a human hair) and effects respiratory healthy and visibility. PM 2.5 is the standard measurement of fine particles (smaller than 2.5 micrometers in diameter) that have effects on health.
- G. “Burn” Day – Forecast issued by the Mesa County Health Department when “Good” AQIs are forecast, in combination with evaluation of monitored PM10 and PM2.5 values and as visibility conditions warrant, during Western Slope Air Watch season.
- H. Western Slope Air Watch season (WSAW) – The annually recurring period during which Burn/No Burn forecasts shall be issued. The period shall run from November 1st through the last day of February.
- I. EPA Certified - When a wood stove or fireplace insert has been tested, certified and labeled for emissions standards in accordance with criteria and procedures specified in Colorado and Federal Air Quality Regulations as specified in Colorado Air Quality Control Commission Regulation No. 4 Section II.
- J. Non-qualified Wood stove or Fireplace. A wood stove or fireplace that does not meet the City of Fruita Land Use Code or EPA Standards.
- K. National Ambient Air Quality Standards (NAAQS) – Clean Air Act Standards for wide-spread pollutants from numerous and diverse sources considered harmful to public health and the environment, specifically those for PM10 and PM2.5.

(Ord. 1998-03, S1)

**Section 2.** Section 8.14.020 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.020 ENDORSEMENTS.** The continuation of Mesa County voluntary NO-BURN Program which was established in 1990 and implemented by the Mesa County Health Department. Documentation that Mesa County is impacted by high air pollution days, with monitored PM2.5 values close to the NAAQS.

Programs which provide incentives to reduce the use of non-EPA wood burning devices.  
(Ord. 1998-03, S1)

**Section 3.** Section 8.14.030 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.030 APPLICABILITY.** This Title and Chapter shall apply to the area within the city limits of Fruita. (Ord. 1998-03, S1)

**Section 4.** Section 8.14.040 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.040 REGULATION OF NEW CONSTRUCTION OR REMODEL.** Wood heating appliances, such as wood stoves and fireplaces, shall be installed for operation in new or remodeled structures in accordance with the Fruita Land Use Code. This Section shall be enforced by the City of Fruita and the Mesa County Building Inspector during the normal course of inspection related to building permits on new construction and remodels. (Ord. 1998-03, S1)

**Section 5.** Section 8.14.050 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.050 OPERATION OF NON EPA CERTIFIED WOOD HEATING APPLIANCE, WOOD STOVE AND/OR FIREPLACE, DURING “NO BURN” DAYS.**

- A. No person shall operate any wood heating appliances as declared by the Mesa County Health Department, unless an exemption has been granted pursuant to this chapter 8.14 section .060 or unless such wood heating appliance is EPA Certified. It shall be the duty of all persons owning or operating a non-qualifying wood heating appliance to be aware of any declaration by the Mesa County Health Department. Any such declaration shall constitute constructive notice of the existence of a ‘No Burn’ day and of the applicability of the Chapter. Each time a “No Burn” day by is declared, four hours shall be allowed for the burn down of existing fires in non-qualifying wood heating appliances prior to the initiation of enforcement.
- B. It shall be unlawful to operate any wood heating appliance during a “No Burn” day. A three step enforcement procedure shall be followed for violations pursuant to this section.
  1. If an owner, keeper, or a member of the household over the age of 18 years has received at least one warning from the City of a complaint within twelve (12) months of being notified of the first official complaint, a person shall be deemed guilty of a non-criminal municipal offense. Any person who violates this Chapter (8.14) upon a second or subsequent complaint within twelve (12) months of the first official complaint commits a Class B municipal offense. (Ord. 1998-03, S19)

**Section 6.** Section 8.14.060 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.060 EXEMPTIONS OF HEAT.** The City of Fruita shall issue an exemption from the no burn requirement contained in Section 8.14.050 to the owner of the non-qualifying wood heating appliance if that device is the sole functional source of heat for the building. (Ord. 1998-03, S1)

**Section 7.** Section 8.14.070 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.070 SEVERABILITY.** The provisions of this Title are severable. If any provision of this Title and Chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Title or chapter which can be given effect, without the invalid provisions of application. (Ord. 1998-03, S1)

**Section 8.** Section 8.14.080 of the Fruita Municipal Code is hereby repealed and reenacted to read as follows:

**8.14.080 CITY OF FRUITA WOOD HEATING APPLIANCE INCENTIVE REPLACEMENT.** The City of Fruita Wood Heating Appliance Replacement Program is hereby created, consisting of, but not limited to, the following components:

- A. **Waiver of Planning Clearance Fees. Planning Clearance fees for qualified replacement of wood heating appliance installations may be waived by the City of Fruita.**
- B. **Other components may be added to the Incentive Program in the future.**

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

City of Fruita

ATTEST:

\_\_\_\_\_  
Lori Buck, Mayor

\_\_\_\_\_  
City Clerk