Chapter 13A

ENVIRONMENTAL PROGRAMS AND STANDARDS

Art. I. Fireplace Restrictions, §§ 13A-1—13A-24
Art. II. Outdoor Fires, §§ 13A-25—13A-49
Art. III. Dust Control, §§ 13A-50—13A-56

ARTICLE I. FIREPLACE RESTRICTIONS

Sec. 13A-1. Purpose.

The purpose of this article is to regulate the emissions standards for fireplaces, woodstoves and other solid-fuel burning devices to reduce the amount of air pollution caused by particulate matter and carbon monoxide.
(Ord. No. 97.67, 12-11-97)

Sec. 13A-2. Applicability.

This article applies to all fireplaces, woodstoves and other solid-fuel burning devices constructed or installed after December 31, 1998.
(Ord. No. 97.67, 12-11-97)

Sec. 13A-3. Definitions.

For purposes of this article, the following words and terms shall have the meaning ascribed thereto:

Fireplace means a built in place masonry hearth and fire chamber or a factory-built appliance, designed to burn solid fuel or to accommodate a gas or electric log insert or similar device, and which is intended for occasional recreational or aesthetic use, not for cooking, heating, or industrial processes.

Solid fuel means and includes, but is not limited to, wood, coal, or other nongaseous or nonliquid fuels, including those fuels defined by the Maricopa County Air Pollution Control Officer as "inappropriate fuel" to burn in residential woodburning devices.

Woodstove means a solid-fuel burning heating appliance including a pellet stove, which is either freestanding or designed to be inserted into a fireplace.
(Ord. No. 97.67, 12-11-97)

Sec. 13A-4. Installation restrictions.

(a) On or after December 31, 1998, no person, firm or corporation shall construct or install a fireplace or a woodstove, and the community development department shall not approve or issue a permit to construct or install a fireplace or a woodstove, unless the fireplace or woodstove complies with one of the following:

(1) A fireplace which has a permanently installed gas or electric log insert;

(2) A fireplace, woodstove or other solid-fuel burning appliance which has been certified by the United States Environmental Protection Agency as conforming to 40 Code of Federal Regulations Part 60, Subpart AAA as in effect on July 1, 1990;

(3) A fireplace, woodstove or other solid-fuel burning appliance that has been tested and listed by a nationally recognized testing agency to meet performance standards equivalent to those adopted by 40 Code of Federal Regulations Part 60, Subpart AAA as in effect on July 1, 1990;

(4) A fireplace, woodstove or other solid-fuel burning appliance that has been determined by the Maricopa County Air Pollution Control Officer to meet performance standards equivalent to those adopted by 40 Code of Federal Regulations Part 60, Subpart AAA as in effect on July 1, 1990; or

(5) A fireplace that has a permanently installed woodstove insert that complies with subparagraphs 2, 3 or 4 above.

(b) The following installations are not regulated and are not prohibited by this article:

(1) Furnaces, boilers, incinerators, kilns and other similar space heating or industrial process equipment;

(2) Cookstoves, barbecue grills and similar appliances designed primarily for cooking; and

(3) Fire pits, barbecue grills and other outdoor fireplaces.

(Ord. No. 97.67, 12-11-97; Ord. No. 2010.02, 2-4-10)

Sec. 13A-5. Fireplace or woodstove alterations.

(a) Fireplaces constructed or installed on or after December 31, 1998, that contain a gas or electric log insert or a woodstove insert, shall not be altered to directly burn wood or any other solid fuel.

(b) On or after December 31, 1998, no person, firm or corporation shall alter a fireplace, woodstove or other solid fuel burning appliance in any manner that would void its certification or operational compliance with the provisions of this article.

(Ord. No. 97.67, 12-11-97)

Sec. 13A-6. Permits required.

(a) In addition to the provisions and restrictions of this article, construction, installation or alteration of all fireplaces, woodstoves and other gas, electric or solid-fuel burning appliances and equipment shall be done in compliance with the provisions of the city's codes and ordinances and shall be subject to the permits and inspections required by those codes and ordinances.

(b) Fireplaces constructed or installed on or after December 31, 1998, shall not be altered without first obtaining a permit from the community development department to insure compliance with this article.
(Ord. No. 97.67, 12-11-97; Ord. No. 2010.02, 2-4-10)

Sec. 13A-7. Use restrictions.

Fireplaces and woodstoves shall not be used during any high pollution advisory day forecast for particulate matter or restricted burn period declared by the county.
(Ord. No. 2008.14, 4-3-08)

Secs. 13A-8—13A-24. Reserved.

ARTICLE II. OUTDOOR FIRES

Sec. 13A-25. Purpose.

The purpose of this article is to regulate outdoor fires to reduce the amount of air pollution caused by particulate matter and to improve air quality.
(Ord. No. 2008.14, 4-3-08)

Sec. 13A-26. Applicability.

This article applies to fire pits and other outdoor fires.
(Ord. No. 2008.14, 4-3-08)

Sec. 13A-27. Outdoor fire restrictions.

(a) From May 1 through September 30 each year it is unlawful for any person to ignite, cause to be ignited, permit or allow to be ignited, any outdoor fire.

(b) No outdoor fire may be ignited or maintained during any high pollution advisory day forecast for particulate matter or restricted burn period declared by the county.

(c) The restrictions in subsections (a) and (b) may be varied only by the exceptional circumstances listed in A.R.S. § 49-501 or through a permit issued by the state or its delegated authority under A.R.S. § 49-501.

(d) Wood-burning in outdoor fires is prohibited at all times on city property, including city parks, unless permitted under § 5-2, chapter 23, or other authority of the Tempe City Code.
(Ord. No. 2008.14, 4-3-08)

Secs. 13A-28—13A-49. Reserved.

ARTICLE III. DUST CONTROL

Sec. 13A-50. Purpose.

The purpose of this article is to improve air quality by regulating practices that contribute to the air pollution caused by particulate matter.
(Ord. No. 2008.14, 4-3-08)

Sec. 13A-51. Definitions.

For purposes of this article, the following words and terms shall have the meaning ascribed thereto:

Leaf blower means a device that generates a stream of air to move landscape debris.

Motor vehicle means a self-propelled conveyance, including vehicles designed for use on roadways and those designed for off-road use.

Particulate matter means fine dust particles that contribute to air pollution and can harm human health.

Person means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.

PM-10 means particulate matter less than ten microns in diameter, a component of fugitive dust emissions from unpaved and unstabilized surfaces.

Public roadway means a street, alley, road, highway or thoroughfare that is used by the public or is open to public use for vehicular travel, including roadways in gated communities.

Stabilized surface means a surface that has been treated with asphaltic concrete, cement concrete, hardscape, brick, decomposed granite cover, crushed granite cover, vehicular duty pavers, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, gravel cover, grass or other continuous vegetative cover, or other means of stabilization approved by the city.
(Ord. No. 2008.14, 4-3-08; Ord. No. 2010.27, 7-1-10)

Sec. 13A-52. Leaf blower use restrictions.

(a) No person may use a leaf blower to blow leaves, grass cuttings, other landscape debris, trash, soil or dust into a public roadway.

(b) No person may operate a leaf blower except on surfaces that have been stabilized.

(c) No person may operate a leaf blower during any high pollution advisory day forecast for particulate matter.

(d) These restrictions are subject to enforcement by the county under A.R.S. § 49-457.01 and by the city's designated dust control inspectors in accordance with § 13A-56 of this article. (Ord. No. 2008.14, 4-3-08; Ord. No. 2010.27, 7-1-10)

Sec. 13A-53. Repealed.
(Ord. No. 2008.14, 4-3-08; Ord. No. 2010.27, 7-1-10)

Sec. 13A-54. Requirements to stabilize vehicle use areas.

(a) Motor vehicle parking, maneuvering, ingress and egress areas shall be stabilized at all developments other than residential buildings with four or fewer units.

(b) Motor vehicle parking, maneuvering, ingress and egress areas at residential buildings with four (4) or fewer units shall be stabilized if the vehicle use areas total three thousand (3,000) square feet or more in size.

(c) Owners of vacant land shall control dust emissions by stabilizing any unpaved area or by installing and maintaining physical barriers approved by the city to prevent vehicle access.

(d) This section will be administered and enforced by the community development director or designee pursuant to the provisions of chapter 21, article III of the Tempe City Code. (Ord. No. 2008.14, 4-3-08; Ord. No. 2010.27, 7-1-10)

Sec. 13A-55. Repealed.
(Ord. No. 2008.14, 4-3-08; Ord. No. 2010.27, 7-1-10)

Sec. 13A-56. Violations.

(a) Violations of this article are subject to enforcement as provided in A.R.S. § 49-513 and Maricopa County Air Pollution Control Regulations § 300.

(b) The city may enter and inspect property subject to regulation under this article as necessary to determine compliance with this article.

(c) When the public works director or designee finds that a person has violated, or continues to violate, any provision of this article, or an order issued hereunder, the director may serve upon that person a written notice of violation. The director's notice will require the person within ten (10) working days of the receipt of the notice, to provide in writing to the director an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions to be taken by the person to prevent subsequent violations. Submission of this plan does not relieve the person of liability for any violations in the notice or that occurred before or after receipt of the notice of violation, and does not limit the director's authority to take further enforcement actions. Nothing in this section shall limit the authority of the public works director or designee to take any action, including emergency actions or any other enforcement actions, without first issuing a notice of violation. In appropriate situations, the public works director or designee may notify the person orally either in person or by telephone prior to, and in some cases in lieu of, written notification.

(d) Any condition caused or permitted to exist in violation of any of the provisions of this article constitutes a threat to the public health, safety, and welfare, and is deemed a nuisance that may be summarily abated at the owner's expense, and is subject to a civil action to abate, enjoin, or otherwise compel the cessation of the nuisance.

(e) The remedies listed herein are not exclusive of any other remedies available under applicable federal, state, and local laws, and the city may, in its discretion, seek cumulative remedies. The city may recover its attorney's fees, court costs, and other expenses associated with enforcement of this article.

(f) If the public works director or designee issues a notice of violation for a provision of this article and makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the public works director or designee may request the county attorney to file an action in superior court to recover penalties provided for in A.R.S. § 49-513.

(g) This article is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
(Ord. No. 2008.14, 4-3-08; Ord. No. 2010.27, 7-1-10)