

By the Linn County Board of Health, it is recommended that the Linn County Board of Supervisors amend Linn County Ordinance # 9-7-2008, Chapter 10, Air Quality, as set out herein.

Section 10.2 "Definitions" is amended as follows where the following language is added:

"Biomass" means¹:

1. Any organic material grown for the purpose of being converted to energy;
2. Any organic byproduct of agriculture that can be converted into energy; or
3. Any material that can be converted into energy and is nonmerchtable for other purposes, that is segregated from other nonmerchtable material, and that is;
 - a. A forest-related organic resource, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchtable material; or
 - b. A wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way tree trimmings.

Section 10.5(9) b. "Exemptions from the Authorization to Install Permit and Permit to Operate Requirements" is modified as follows where language added is underlined and language ~~deleted~~ is shown stricken as follows:

- b. Fuel-burning equipment for indirect heating or cooling with a capacity less than one million BTU per hour input when burning ~~coal,~~ fuel oil grade #1 and #2, untreated wood, untreated seeds or pellets, or other untreated vegetative materials. This exemption does not apply to equipment burning waste oil.

Section 10.8(2) b "Emissions From Fuel-Burning Equipment" is modified as noted where language added is underlined and language ~~deleted~~ is shown stricken as follows:

10.8 Emissions From Fuel-Burning Equipment

2. Emission Limitation.

b.....

Except as provided in §10.8(3) of this Ordinance, fuel burning equipment with For heat inputs less than 10 million BTU, 0.6 lb/million BTU shall apply.

Section 10.8(3) "Exemption for Residential Heaters Burning Solid Fuels" is created as follows:

¹ Source: 40 CFR Part 60 Subpart B Adoption and Submittal of State Plans for Designated Facilities

(3) Exemption for Residential Heaters Burning Solid Fuels

Residential heaters meeting the definition of “fuel burning equipment” pursuant to Section 10.8.a of this ordinance, with a manufacturer rated heat input of 500,000 Btu/hr or less burning solid fuels, that was installed prior to [insert date of rule promulgation or some future date], and meets the following criteria and standards are exempt from the emission standard for particulate matter specified in Section 10.8(2)(b).

- a. Residential heaters shall be limited to the following solid fuels.
 - 1) Untreated wood;
 - 2) Wood pellets made from untreated wood;
 - 3) Home heating oil in compliance with the applicable sulfur content limit, propane or natural gas may be used as starter fuels for dual-fired residential heaters as specifically permitted by manufacturer’s instructions;
 - 4) Trees, tree trimmings, branches, and stumps, but does not include brush, weeds, leaves, grass, shrubbery, yard trimmings, or other landscape wastes as allowed pursuant to Section 10.10 of this ordinance.
 - 5) Biomass as defined in Section 10.2 of this ordinance.

- b. Residential heaters located on property **or adjacent to property** that is incorporated or zoned Urban Service Residential (USR), Rural Residential 1 (RR1), Rural Residential 2 (RR2), or Rural Residential 3 (RR3), **Village Residential (VR), or Village Mixed-Use (VM):**
 - 1) The owner shall not operate the residential heater during the period starting May 15 and ending September 15.
 - 2) Excluding untreated wood or biomass generated on site that may be openly burned pursuant to Section 10.10 of this ordinance, the owner shall not combust more than 18,000 lbs (5 cords) of fuel per annual heating season.
 - 3) The residential heater shall either:
 - a) be no closer than 200 feet to the nearest property zoned USR, RR1, RR2, or RR3 **VM, or VR** not served by the residential heater; OR
 - b) have, by no later than September 15, 2010, a permanent stack that extends two feet higher than the peak of any roof structure that is located within 300 feet of the residential heater not served by the residential heater but no less than 15 feet above ground level **and need be no greater than 25 feet above ground level.**

- c. Residential heaters **NOT located on or adjacent to** property that is NOT incorporated or zoned Urban Service Residential (USR), Rural Residential 1 (RR1), Rural Residential 2 (RR2), or Rural Residential 3 (RR3), **Village Residential (VR) or Village Mixed-Use (VM):**
 - 1) Excluding untreated wood or biomass generated on site that may be openly burned pursuant to Section 10.10 of this ordinance, the owner shall not combust more than 54,000 lbs (15 cords) of fuel per annual heating season.
 - 2) If the residential heater is within 500 feet of an occupied structure not served by the boiler, then by no later than September 15, 2010, the residential heater shall have a permanent stack that extends 15 feet above ground level.
 - 3) The owner of a residential heater may elect to comply with the requirements of subparagraph “b” of this section rather of the requirements specified in subparagraph “c.”

Section 10.8(4) "Nuisance Conditions for Fuel Burning Equipment" is created as follows:

4) Nuisance Conditions

- a. No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration that are injurious to human, plant or animal life or to property, or that unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, toxic, or deleterious emission, either alone or in combination with others.
- b. If existing fuel burning equipment is, through the course of a proper investigation by the Department, creating a verifiable nuisance, the following steps shall be taken by the owner at the direction of the Department.
 - 1) Modifications made to the unit to eliminate the nuisance such as extending the chimney, fuel management, or relocating the residential heater or both.
 - 2) Cease and desist operating the unit until reasonable steps can be taken to ensure that the residential heater will not be a nuisance.

Section 10.24 Penalty shall be modified as noted where language added is underlined and language ~~deleted~~ is shown stricken as follows

Section 10.24 "Penalty"

A violation of any of the requirements of this ordinance ~~are~~ is subject to the following penalties:

1. A violation of any provision of this ordinance or any code, rules, or regulations adopted herein by reference shall constitute a county infraction.
2. Open Burning and Residential Heater Penalties.
 - a. Any person convicted of committing a county infraction upon Section 10.8(3) (Residential Heaters) or Section 10.10 (Open Burning) of this ordinance shall be fined as follows:

First offense: \$100

Second offense: \$200

Third and subsequent offense: according to the provisions of §10.24(3)

- b. Notwithstanding § 10.24(2)(a) of this ordinance, any person convicted of committing a county infraction based upon Section 10.8(3) (residential heaters) or Section 10.10 (Open Burning) of this ordinance shall be fined according to the provisions of §10.24(3) if the material contained in the ~~open~~ burning involves any of the following:

- 1) tires or other rubber materials

- 2) asphalt shingles or other asphalt materials
 - 3) any material potentially containing asbestos, unless it was tested by an approved laboratory prior to the burning and proven to be negative
 - 4) creosote treated wood
 - 5) trade waste materials
- c. Notwithstanding § 10.24(2)(a) of this ordinance, any person convicted of committing a county infraction based upon Section 10.8(3) (Residential Heaters) or Section 10.10 (Open Burning) of this ordinance shall be fined according to the provisions of §10.24(3) if the burning involves commercially generated waste including, but not limited to, burning to avoid fees for proper disposal, burning in conjunction with scrapping or salvaging operations, or burning material hauled from other locations.
3. Pursuant to authority granted by §455B.146 of the Code of Iowa, any person charged with committing a county infraction based upon any section of this ordinance (except Section 10.8(3) or 10.10 as specifically exempted above) shall, upon conviction be subject to a civil penalty of not more than Ten Thousand Dollars (\$10,000) per day for each day of the violation. Each day that a violation occurs or is permitted to exist by the violator shall constitute a separate offense.

Paragraphs 4 through 11 of §10.24 remained unchanged.