

ORDINANCE #5090

AN ORDINANCE AMENDING SECTION 8.34.030 OF THE RAPID CITY MUNICIPAL CODE PERTAINING TO DEFINITIONS.

BE IT ORDAINED by the City of Rapid City that Section 8.34.030 of the Rapid City Municipal Code be amended to read as follows:

8.34.030 Definitions:

Air Quality Board:

1. There is hereby created an Air Quality Board consisting of seven (7) voting members and three (3) ex-officio members.
 - a. The composition and further requirements of the seven voting members are as follows:
 - i. Two (2) members representing industry;
 - ii. One (1) member representing the engineering profession (member shall have graduated from an accredited college or university with an engineering degree);
 - iii. One (1) member representing environmental interests (member shall have an interest and knowledge in environmental issues, preferably air quality issues);
 - iv. One (1) member representing homeowners (member shall own a home in the regulated area);
 - v. One (1) member representing the business community (member shall be associated with a business in the regulated area);
 - vi. One (1) member at large (member shall be selected at large by the County Commission).
2. Six of the voting members of the Air Quality Board shall be appointed by the Mayor of Rapid City and confirmed by the Rapid City Council for a term of three (3) years on a staggered term basis. One member at large will be appointed by the Pennington County Commission for a term of three (3) years. The current Board shall continue until their respective terms are up and shall be replaced by application and appointment.
3. All voting members shall be residents of the regulated area as defined in Section 8.34.020(A), or the area as regulated in Section 1.02 of Pennington County Ordinance No. 12, with the exception of the two industry members, shall not derive a majority of their income, either directly or indirectly, from a person, who is subject to regulation by Rapid City Municipal Code Chapters 8.34 through 8.44. For purposes of this section, a person who is subject to regulation by Rapid City Municipal Code Chapters 8.34 through 8.44 does not include one who is regulated solely for a parking lot, open burning, or a solid fuel burning device. Applicants for the above positions, except for the industry representative, shall submit a signed statement that they do not derive a majority of their income from a person who is subject to regulation by Rapid City Municipal Code Chapters 8.34 through 8.44. Any further documentation which the Rapid City Council or Pennington County Commission may require concerning the applicant's finances are to be considered

confidential and shall not be made available to anyone other than the Rapid City Council or Pennington County Commission.

4. The composition and professional associations of the three Ex-Officio Members are as follows:
 - a. One (1) member representing state government (Secretary of the Department of Environment and Natural Resources, or designee);
 - b. One (1) member representing the city of Rapid City, South Dakota (Mayor of Rapid City or designee);
 - c. One (1) member representing the Pennington County Commission (Chairman of Board or designee).

5. The duties of the Air Quality Board shall be to review and approve compliance plans, serve as an appeal board, act on enforcement action initiated by the Air Quality Division, and make recommendations to the Rapid City Council and Pennington County Commission on policies related to the air quality of the City of Rapid City and Pennington County. The purpose and goal of the decisions made and actions taken by the Air Quality Board shall be to protect and serve the public interest.

“Air Quality Control Zone” means that area as defined in Section 8.34.020 (A).

Air Quality Division. There is created the Rapid City Air Quality Division. The Air Quality Division shall be responsible for the administration and enforcement of Chapters 8.34 through 8.44.

“Ambient Air” means that portion of the atmosphere outside of buildings to which the general public has access.

“Best Management Practices” means a storm water technique, measure or structural control that is used for a given set of conditions to manage the quantity and improve the quality of storm water runoff in the most cost-effective manner.

“Burning Season” means that period of time from November 1st through March 31st in the following year.

Civil Action. In addition to the penalties set forth in Chapters 8.34 through 8.44 for a smoke abatement violation, the Air Quality Board may bring civil action for appropriate relief including a temporary or permanent injunction to enforce compliance with the provisions of Chapters 8.34 through 8.44.

“Commission” means the Pennington County Commission.

“Compliance Plan” means the plan prepared for the control and prevention of fugitive emissions from continuous operation activities.

“Construction Activity” means any temporary activity, which involves the removal or alteration of the natural or pre-existing cover of one acre or more of land. The one acre of surface area is based on a cumulative area of anticipated disturbance to be completed for the entire project. Construction activity shall include but not be limited to stripping of topsoil, drilling, blasting, excavation,

dredging, ditching, grading, street maintenance and repair, road construction, or earth moving. Construction activity is generally completed within one year.

“Continuous Operation Activity” means any activity which may cause particulate fugitive emissions to be released into the ambient air and which is conducted on an on-going basis in the same locality including but not limited to, street deicing and traction material activities, loading and unloading of material that may cause fugitive emissions and for a site with ongoing soil fill operations.

“Control Measure” means a technique, practice or procedure used to prevent or minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust.

“Corrective Action” means actions required by the Air Quality Division or Air Quality Board to correct violations of the Chapters 8.34 through 8.44.

“Council” means the Rapid City Council.

“Disturbed Area” means a property where the natural or pre-existing cover has been disturbed but not properly reclaimed or stabilized to prevent fugitive emissions.

“Ecosystem Management” means those activities employed to maintain or enhance the floral or fauna habitat, or to reduce accumulated natural fuels in an area, and supervised by a local, state or federal land/wildlife management agency.

“Entry on Property” any duly authorized officer, employee or representative of any city or county agency responsible for enforcing Chapters 8.34 through 8.44, after obtaining an escort and complying with safety regulations, may enter and inspect that part of any property, premises or place in which such officer, employer, or representative has reasonable grounds to believe is a source of air pollution or in which such officer, employee or representative has reasonable grounds to believe that the provisions of Chapters 8.34 through 8.44 are not being followed. The entry and inspection may be conducted at any reasonable time, without prior notice, for the purpose of investigating said pollution or of ascertaining the state of compliance with the ordinance. No person shall refuse entry or access to any authorized person who requests entry for the purpose of such an investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such investigation.

“Erosion Control” means the measures that will be used to limit erosion of soil from disturbed areas at a construction site. The purpose of erosion control is to limit the amount and rate of erosion occurring on disturbed areas.

“Fire Hazard” means any thing or act, including buildings or flammable materials, which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the general public.

“Fire Department Personnel Training” means activities designed for the purpose of training fire department personnel and conducted by a fire department.

“Fuel” means solid matter burned in a solid fuel burning device or under the conditions of open burning that is limited to the following: untreated dry wood and lumber, coal and products manufactured for the sole purpose as a fuel. Untreated wood or lumber shall mean wood in its natural state that has not been chemically soaked or treated.

“Fugitive Emissions” means those particulate emissions, which do not pass through a stack, chimney, vent, or other functionally equivalent opening. In the event that any of the particulate emissions included by this definition are regulated by the state of South Dakota, the stricter and more extensive requirements for control of such emissions shall be enforced over the less restrictive requirements. Particulate emissions from rock crushers for which a permit to operate has been issued are excluded from this definition.

“Gravel Pad” means a layer of washed gravel, rock or crushed rock which is at least two inches or larger in diameter, located at the interface of the construction site and a paved surface. The gravel pad shall be an adequate length to dislodge mud, dirt and/or debris from the tires of motor vehicles, haul trucks and/or equipment prior to leaving the work area.

“Grizzly” means a device, such as rails, pipes or grates, used to dislodge mud, dirt, and/or debris from the tires and undercarriage of motor vehicles and/or haul trucks prior to leaving the work site.

“Inappropriate Fuel for Open Burning” includes, but is not limited to: leaf piles, grass clippings, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, building materials, animal waste, liquid gelatinous hydrocarbons, tar, paints and solvents, chemically soaked or treated wood, plastic or rubber, the materials specified in Section 8.36.020(D), or other materials not listed in this section.

“Inappropriate Fuel for Solid Fuel Burning Devices” includes, but is not limited to: leaves, grass clippings, pine needles, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, building materials, animal waste, liquid or gelatinous hydrocarbons, tar, paints and solvents, chemically soaked or treated wood, plastic or rubber, the materials specified in Section 8.36.020(D), or other materials not listed in this section.

“Manual Sweeping” means the use of a hand broom and shovel or bobcat for clean up of soil deposited on a paved surface. This method shall be used only if the area of impact is small or as a pre-cleaning for another clean up method.

“Mechanical Sweeping” means the sweeping method used to remove material from a paved surface utilizing a water system and mechanical capture of material to eliminate or reduce fugitive emissions.

“National Ambient Air Quality Standards (for particulates)” means the national primary and secondary ambient air standards for particulate matter as described

in the current edition of the Code of Federal Regulations (CFR), Title 40, Volume 2, Part 50, (July 1, 1997) specifically:

- ~~1. PM2.5: The annual primary and secondary PM2.5 standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR, Part 50, Appendix N (July 1, 1997) is less than or equal to 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). The 24-hour primary and secondary PM2.5 standards are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR, Part 50, Appendix N (July 1, 1997), is less than or equal to 65 $\mu\text{g}/\text{m}^3$.~~
- ~~2. PM10: The annual primary and secondary PM10 standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR, Part 50, Appendix K (July 1, 1997) is less than or equal to 50 $\mu\text{g}/\text{m}^3$. The 24-hour primary and secondary PM10 standards are attained when the expected number of days per calendar year with the 24-hour average concentration above 150 $\mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR, Part 50, Appendix N (July 1, 1997), is less than or equal to one~~

“Normal Agricultural Practices” means all activities conducted by the owner or lessee at a site for the production of crops and/or nursery plants.

“Noxious Weed” means undesirable vegetation that is characterized by profuse seed production and/or an ability to spread through rapid growth, making it difficult to control or eradicate through normal management operations.

“Opacity” means the degree to which fugitive emissions reduce the transmission of a light source.

“Open Burning” means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passage through a stack, duct, or chimney.

“Open Burning Permit” means the permit that must be obtained from the Air Quality Division and completed by any person seeking approval to conduct open burning. The permit provides relevant information regarding a planned open burning activity. Depending on the location of the open burn, a permit may be required by the South Dakota Department of Agriculture, Wildland Fire Suppression Division or Rapid City Department of Fire and Emergency Services.

“Parking Lot” means any paved parking lot, one acre or more in size, to which deicing and/or traction materials are applied during adverse weather and any unpaved parking or storage lot, one acre or more in size.

“Phased Work” means work completed in phases for subdivision improvements. A separate permit will be required for each phase of subdivision work. Work can not be phased for the sole purpose of reducing the size of the work to be less than one acre and not subject to the requirements of a permit.

“PM_{2.5}” means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half micrometers.

“PM₁₀” means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

“Person” means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the State, trust, estate or any other legal entity.

“Political Subdivision” means any public or private entity that maintains street operations within the area designated in Section 8.34.020(A).

“Project completion” means all surface areas have been reclaimed by building construction, paving, gravel, landscaping and/or permanent revegetation to prevent fugitive dust generation.

“Reasonably Available Control Technology (RACT)” means the emission control technology determined on a case by case basis by the Air Quality Division to be feasible in meeting the requirements of Chapters 8.34 through 8.44, taking into account energy, the environment, economic impacts and other costs.

“Reclamation Plan” means the plan that describes the manner and timeframe in which all disturbed surfaces will be stabilized to prevent fugitive dust generation.

“Reentrainment” means a process in which particulate matter that has been deposited in one place is then liberated into the ambient air by vehicular travel, wind, or other causes.

“Road Construction Travel Surface” means the surface material located at the interface of the road construction activity and the paved public right of way. The travel surface shall be constructed of a material and length to adequately dislodge mud, dirt and/or debris from the tires of motor vehicles, haul trucks and/or equipment prior to leaving the road construction area.

“Sediment Control” means the measures that will be used to limit transport of sediment to off-site properties, public rights of way and downstream receiving waters. The objective of sediment control is to capture the soil that has been eroded before it leaves the construction site.

“Smoke” means small airborne particles resulting from incomplete combustion consisting predominantly, but not exclusively, of carbon, ash, and other combustible materials, that form a visible plume.

“Solid Fuel Burning Device” means any fireplace, fireplace insert, wood stove, wood burning heater, wood fired boiler, coal fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic, cooking or space heating inside a building.

"State facility" means any state agency, state-owned or state-leased property, or property subject to a temporary state easement in the Rapid City Air Quality Control Zone.

"State contractor" means any person under contract to provide services to a State facility including any person under contract to provide construction or continuous operation activities on State highways or the State interstate system within the Rapid City Air Quality Control Zone.

"Track out Control Device" means a device that includes but is not limited to a gravel pad, grizzly, wheel wash system, road construction travel surface and/or paved area for temporary use that has restricted public access, located at the point of intersection of a construction activity and a paved road, street or parking lot to dislodge mud, dirt, and/or debris from the tires of motor vehicles, haul trucks and/or equipment prior to leaving the work area. The device shall be the full width of all points of ingress and egress. The device shall be maintained in a condition, which will prevent tracking out onto paved surfaces and public rights of way.

"Vacant Lot" means a lot or property where there is no current activity but fugitive dust can be generated because the property has not been properly reclaimed or stabilized to prevent fugitive emissions.

"Vacuum Sweeping" means the method of sweeping used to remove material from a paved surface that utilizes a water system and vacuum capture of material to eliminate or reduce fugitive emissions.

"Wheel Wash System" means a system at the site entrance used to wash soil from motor vehicles or equipment to prevent tracking or material becoming dislodged from the vehicle or equipment onto a public right of way or paved parking lot.

"Wildfire" means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

"Wildfire Control Management" means activities, including open burning, that are conducted to reduce the potential for serious or wild fires.

Dated this _____ day of _____, 2005.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:

Second Reading:

Published:

Effective: