Title: Regulatory Policy Use of Solid Fuel Burning Devices	**Policy No.** Part 3, Regulations Chapter 2, Air Quality Section 4
	Effective Date May 8, 2007
Policy Custodian Planning and Zoning	**Adoption/Revision Date** May 8, 2007 / May 2013

Adopting Resolution(s): CC07-244

References (Statutes /Resos/Policies): CC89-873, CC92-800

Purpose: To establish that it is unlawful, subject to the terms and conditions herein, for all citizens in the unincorporated portion of Jefferson County living in areas below 7,000 feet in elevation to use solid fuel burning devices on days declared to be high pollution days.

Policy: Use of Solid Fuel Burning Devices

A. Definitions. As used herein, the following terms have the following meanings:

1. "High pollution day" means a period of time designated as a high pollution day for the Denver metropolitan area by the Colorado Department of Health.

2. "Phase III certified wood stove" means a wood burning stove which meets the emission standards set forth in Regulation No. 4 of the Colorado Air Quality Control Commission.

3. "Sole source of heat" means one or more solid fuel burning devices which constitute the only source of heating in a private residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the private residence is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.

4. "Solid fuel burning device" means a device designed for the combustion of solid fuels including but not limited to wood, coal, paper or similar materials so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces or wood stoves of any nature, solid fuel burning cooking stoves, combination fuel furnaces or heaters which burn solid fuel, or any other device used for the burning of solid combustible material. Solid fuel burning devices do not include devices used solely for the cooking of food or natural gas-fired fireplace logs.

B. Exemptions:

1. It is an affirmative defense to a charge of solid fuel burning on a high pollution day that a person has obtained a temporary exemption demonstrating:

   a. An economic need to burn solid fuel for residential space heating purposes; or

   b. Reliance on a solid fuel burning device installed prior to December 1, 1989, as the sole source of heat.

2. The County's Director of Community Resources, or his designee, may grant such exemptions according to the following standards:

a. A person shall demonstrate economic need by certifying eligibility for energy assistance according to economic guidelines established by the United States Office of Management and Budget under the Low-income Energy Assistance program (L.E.A.P.), as administered by Jefferson County.

b. A person applying for an exemption must sign a sworn statement demonstrating reliance on a solid fuel burning device installed prior to January 1, 1990, as the sole source of heat.

c. An exemption obtained under this section shall be effective for one (1) year from the date it is granted.

3. These regulations shall not be applicable to any solid fuel burning sources located at or above 7,000 feet in elevation within the County.

4. These regulations shall not be applicable to any solid fuel burning source for which a permit has been obtained from the State of Colorado or the United States Environmental Protection Agency.

5. These regulations shall not be applicable to the operation of any Phase III certified wood stove.

C. Non-Owner Occupied Dwelling Units:
After January 1, 1990, no person shall rent a building if a woodstove or fireplace is the sole source of heat. In such case, the owner, and not the tenant, shall be liable for any penalty imposed.

D. Inspections:
For the purpose of determining compliance with the provisions of these regulations, County inspectors, duly appointed by the Board of County Commissioners, are authorized to make inspections of all air contamination sources, including solid fuel burning devices which are being operated on high pollution days and to issue citations for violations of these regulations. If any person refuses or restricts entry and free access to any part of a premise, or refuses inspection or sampling of any device, facility or process where inspection is sought, the inspectors may seek from the appropriate court in and for the County of Jefferson a search warrant authorizing an inspector to enter the premises and comply with these regulations.

E. Hearings:

1. Any person cited for a violation of these regulations shall be entitled to an administrative hearing before either the Board of County Commissioners or an administrative hearing officer appointed by the Board of County Commissioners at which the person cited for violation shall have the right to present their case by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any witness testifying shall be placed under oath.

2. All hearing officers appointed by the Board of County Commissioners to hear cases involving alleged violations of these regulations shall be an attorney at law in good standing and admitted to practice in this state with five (5) years' experience practicing law.
3. A full and complete record of all proceedings and testimony presented shall be taken and filed. This record shall be kept on file with the Clerk to the Board of County Commissioners.

4. Any order or determination by the hearing officer shall be subject to judicial review pursuant to the provisions of Rule 106 of the Colorado Rules of Civil Procedure.

5. With respect to any alleged violation of these regulations, the burden of proof at any hearing shall be upon the County.

F. Penalties:

1. Every person found to have violated these regulations shall pay a fine according to the following schedule:

   a. First violation, one hundred dollars ($100.00);

   b. Second violation, two hundred dollars ($200.00); and

   c. Third violation, three hundred dollars ($300.00).

2. The date when the actual violation occurred will control regardless of the date of conviction.

3. The record of the violator for two (2) years prior to the date of the current violation will be considered in imposing the penalties specified herein.