

NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
P-26 RESIDENTIAL WOODBURNING RESTRICTION ORDINANCE

PREAMBLE

- 1. Sections affected** **Rulemaking action**
P-26 Residential Woodburning Restriction Ordinance Amend
- 2. Statutory authority for the rulemaking:**
Authorizing Statute: A.R.S. § 11-871
Implementing Statute: A.R.S. § 49-501(F)
- 3. The effective date of the rule:**
March 26, 2008
- 4. List of all previous notices appearing in the register addressing the final rule:**
Notice of Rulemaking Docket Opening: 13 A.A.R. 2600, July 20, 2007.
Notice of Proposed Rulemaking: 13 A.A.R. 3701, November 2, 2007.
Notice of Proposed Rulemaking: 14 A.A.R. 461, February 15, 2008.
- 5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:**
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- 6. Explanation of the rule, including the department's reason for initiating the rule:**
The Maricopa County Residential Woodburning Restriction Ordinance (RWBRO) was revised after Senate Bill 1552 amended A.R.S. §§ 11-871(B), (D)(3), and (D)(4) and 49-501(F). A.R.S. § 11-871 applies to residential woodburning in sections of Area A that are within Maricopa County when monitoring or forecasting indicates that the carbon monoxide (CO) standard or the particulate matter (PM) no-burn standard are likely to be exceeded. A.R.S. § 49-501(F) applies to no-burn day restrictions for open outdoor fires in chimeneas, fire pits and other similar outdoor fires.

These revisions were mandated after a review of residential woodburning programs in other parts of the country. The review concluded that increasing the penalties for burning and closing the loopholes in the existing residential woodburning program would result in additional particulate matter reductions. The review also concluded that changes to other elements of the residential woodburning program other than this curtailment program and the clean burning fireplace requirements for new construction would result in only de minimis incremental emission reductions. A.R.S. §11-871 (D)(3), (D)(4) also mandated an increase in the civil penalty for violations of this ordinance to \$250 for the fourth or any subsequent violation.

The PM_{2.5} no-burn action threshold was added to the amended ordinance action level following observed recorded values of the 24-hour PM_{2.5} standard in excess of the National Ambient Air Quality Standard. The PM_{2.5} standard was violated in Phoenix during the 2006- 2007 Christmas and New Year holiday seasons purportedly due to residential woodburning and holiday traffic emissions. Maricopa County is currently in compliance with the PM_{2.5} standard. The addition of the PM_{2.5} action level in this ordinance will provide an early warning alert to ambient conditions and consequently can help prevent further exceedances of the PM_{2.5} standard. This change should assist the Phoenix area to avoid becoming designated as a non-attainment area for PM_{2.5} by the EPA.

Section by Section Explanation of Changes:

- Section 1 - A This amendment adds to the ordinance: outdoor fire pits, wood burning chimeneas, and similar outdoor fires. Also the trigger for ordinance restrictions changes to when monitoring or forecasting indicates that air quality standards are likely to be exceeded instead of when the carbon monoxide (CO) standard and/or the particulate matter no-burn standards are likely to exceed.
- Section 1 - B This amendment adds burning devices: outdoor fire pits, wood burning chimineas, and similar outdoor fires to the ordinance applicability. It also removes barbecue devices and mesquite grills from the ordinance applicability.
- Section 2 - B(1) This amendment updates the definition of an approved device certified by the EPA Phase II Standards of Performance for Wood Heaters in 40 Code of Federal Regulations (CFR) 60, Subpart AAA through July 1, 2006.
- Section 2 - B (3) This amendment adds both indoor or outdoor woodburning fireplaces to the approved woodburning device definition and specifies they are to be designed to burn exclusively natural gas or propane.
- Section 2 - B(4) This amendment updates performance standards for any solid fuel burning device equivalent to the standards in 40 CFR 60, subpart AAA through July 1, 2006.
- Section 2 - C This amendment updates the legal land description of Area A in the federal township-range format so that it coincides with the description of Area A found in Arizona Revised Statutes (A.R.S.) § 49-541(1).
- Section 2 - D This amendment requires additional woodburning devices: outdoor fire pits, wood burning chimineas, and similar outdoor fires to cease combustion within three hours after declaring a restricted-burn period.

- Section 2 - G This amendment corrects the reference to asphalt products and reduces the moisture content limit of inappropriate fuels from 30 to 20 percent.
- Section 2 - I This amendment adds the definition of Outdoor Fire Pits.
- Section 2 - J This amendment adds a definition of the ozone standard.
- Section 2 - K This amendment updates the definition of the Particulate Matter No-Burn standard to include 24-hour concentrations for both PM₁₀ and PM_{2.5}.
- Section 2 - L This amendment updates the definition of the National Ambient Air Quality Standard for Particulate Matter to include both standards for PM₁₀ and PM_{2.5}.
- Section 2 - M This amendment revises the definition of the Residential Woodburning Device. It omits the reference to barbecue devices, fire pits, or mesquite grills and adds for aesthetic or space-heating purposes.
- Section 2 - O This amendment adds that County Building Code requirements supersede these ordinance requirements.
- Section 2 - P This amendment adds a definition of Woodburning Chimineas.
- Section 3 This amendment renames Section 3 to 'Burning Restrictions'.
- Section 3 - A This amendment renames section 3(A) to "Restricted Operation During Restricted-Burn Periods" and expands restricted-burn period declarations to any day during the entire calendar year. This amendment adds to the ordinance restrictions on additional woodburning devices: outdoor fire pits, wood burning chimineas, and similar outdoor fires. It also corrects the reference to exemptions.
- Section 3 - B This amendment renames section 3(B) to "Unlawful Operation".
- Section 3 - B(1) This amendment adds that a person shall not operate the additional devices: outdoor fire pits, wood burning chimineas, and similar outdoor fires such that emissions are visible during a restricted-burn period. This amendment excludes descriptions that apply exclusively to indoor residential devices.
- Section 3 - B(2) This amendment adds that outdoor fire pits, wood burning chimineas, and similar outdoor fires are to be installed according to manufacturer requirements.
- Section 3 - B(3) This amendment adds that outdoor fire pits, wood burning chimineas, and similar outdoor fires can use only fuels recommended by the manufacturer.
- Section 3 - B(4) This amendment adds that outdoor fire pits, wood burning chimineas, and similar outdoor fires can not burn inappropriate fuel.
- Section 3 - C This amendment renames section 3(C) to "Lawful Operation".
- Section 3 - C(1) This amendment allows the Control Officer to issue an exemption under conditions specified in the ordinance during a declared restricted-burn period.
- Section 3 - C(2) This amendment allows all residential woodburning devices that meet the requirements of Maricopa County Rule 318 and visible emissions to operate during a declared restricted-burn day.

- Section 3 - C(3) This amendment adds that burning devices can be used during a restricted-burn period if they are designed to burn exclusively natural gas or propane.
- Section 3 - D(1) This amendment adds the ozone standard to the criteria of what would trigger the declaration of a restricted-burn period.
- Section 3 - D(2) This amendment adds additional devices: outdoor fire pits, wood burning chimineas, and similar outdoor fires to withhold new fuel from the device for the duration of the restricted-burn period.
- Section 3 - D(3) This amendment adds the responsibility to know when a restricted-burn period has been declared for operators of outdoor fire pits, wood burning chimineas, and similar outdoor fires.
- Section 3 - E This amendment updates the Arizona Revised Statute reference to Violations, Notices, and Penalties to the new state statute sequencing system.
- Section 3 - E(2) This amendment imposes a civil penalty of \$50 on any person who violates this ordinance for the second violation.
- Section 3 - E(3) This amendment imposes a civil penalty of \$100 for the third violation and \$250 for the fourth or any subsequent violation. The amendment also allows refuting the citation by demonstrating that smoke is not caused by any of the additional devices; outdoor fire pit, wood burning chiminea, similar outdoor fires or an allowed exemption.
- Section 4 - A This amendment changes the ordinance reference number for ‘Sole Source of Heat’ to match the amended ordinance sequencing system.
- Section 4 - D(2) This amendment changes the ordinance reference number for ‘Sole Source of Heat’ to match the amended ordinance sequencing system.
- Section 4 - D(4) This amendment references the exemption for an inadequate alternate source of heat to comply with all municipal or County Building Code requirements.

7. Demonstration of compliance with A.R.S. §49-112:

The revisions to this ordinance were required by changes to A.R.S. §11-871 and §49-501(F) contained in the recently enacted SB 1552. Therefore, a demonstration of compliance with A.R.S. §49-112 as required by the County’s general grant of rulemaking and ordinance authority in A.R.S. §49-479 does not apply to this action.

8. Reference to any study relevant to the rule that the department reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

9. Showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

10. Summary of the economic, small business, and consumer impact:

Implementation of these changes to P-26 Residential Woodburning Restriction Ordinance do not create additional costs to Maricopa County residents but could create additional costs for the Maricopa County Air Quality Department (MCAQD) for implementation and enforcement. To date, additional costs have not been realized because enforcement has been limited to a complaint response status. Conversely, there are public benefits resulting from the reduced emissions of particulate matter associated with the ordinance provisions. These benefits result from reducing burdens on the community health care systems and/or from the reduction of physical health and welfare effects on individuals.

Emissions Estimates

After a review of historical data over the last three years (2004 - 2006), forecasting determined the carbon monoxide (CO) standard or the particulate matter (PM) no-burn standard were exceeded an average of 12 episodes per year. Restricting residential wood burning on these twelve no-burn days results in a reduction of annual woodburning emissions in the nonattainment area by 7.15 percent. Assuming that 80 percent of the residents comply with the no-burn requirement, annual emissions from woodburning would be reduced by at least 5.72 percent. This results in an emission reduction of 0.11 metric tons/day during the no-burn episodes each year. (2005 Periodic PM10 Emission Inventory Maricopa County, AZ §3.2.6)

These emission estimates are derived from the latest available data on residential wood use for household heating in Maricopa County, from the US Department of Energy and are for the calendar year 2003. Since all fireplaces in homes constructed since 1999 are required by Arizona Statute to be clean-burning, it is assumed that new homes have negligible emissions from indoor devices. Thus, year 2003 data is assumed to be representative of 2005 emissions and of future emissions from indoor devices. (2005 Periodic PM10 Emission Inventory Maricopa County, AZ § 3.2.6)

Health Consequences of the Particulate Matter (PM) Emissions

These adverse health effects result in a number of economic and social consequences, including:

1. Medical Costs: These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work loss: This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased costs for chores and care giving: These include special care giving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and she or he may require care giving.

4. Other social and economic costs: These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members.

The reductions of PM emissions can reduce these physical health and welfare effects in the residential community. Health benefits can be expressed as avoided cases of PM related-health effects and can be assigned a dollar value. (U.S. EPA, “The Benefits and Costs of the Clean Air Act 1990 to 2010,” Chapter 6, “Economic Valuation of Human Health Effects,”)

As mentioned above, the MCAQD has an inspection and enforcement program in place to monitor for violations of residential woodburning during restricted-burn days. The inspection program may include regular inspections but to date consists of responding to smoke emission complaints. The amendments to P-26 will not increase the current schedule of Maricopa County inspection, monitoring, recordkeeping or reporting but it does close regulatory loopholes by including restrictions on outdoor residential devices. The possibility of increased fines generated from increased penalties in this ordinance are not likely to impact or create additional County revenues because, to date, there have not been any consecutive third or fourth violations resulting in the fines.

Health benefits for the general public result from the public education, outreach, and enforcement of this particulate matter control measure. The health benefits result from the reduction in particulate matter emissions and associated reduction in ambient pollutants. There are no direct costs to the business community or impacts on small business as this ordinance only applies to the residential community. At this time, implementation of the ordinance will not increase current costs of the existing Maricopa County Air Quality Department regular inspection program. Implementation of these ordinance amendments through community education and outreach programs will only benefit the public because of the reduction in burdens on the community health care systems and associated reduction in costs for community health care, as mentioned above.

11. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

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12. Description of the changes between the proposed rule, including supplemental notices and final rule:

Changes were made between the text of the proposed rule and the text of the final rule because there was an inadvertent elimination of an important section of prohibitions on specific woodburning devices: outdoor fire pits, woodburning chimeneas, and similar outdoor fires. These changes were detailed in a Notice of Supplemental Proposed Rulemaking, which was heard and approved on March 26, 2008 in a public hearing before the Maricopa County Board of Supervisors.

The final rule revises the text of the proposed rule and retains the format of the previously approved Residential Woodburning Restriction Ordinance (11/17/1999). The changes include different titles for Section 3, (A)(B)(C). Section 3 of the final rule is now titled Burning Restrictions. Reference to residential woodburning devices is eliminated from titles in sections 3 (A) (B) (C). Eliminating this reference allows additional woodburning devices: outdoor fire pits, woodburning chimeneas, and similar outdoor fires to be included within each section.

The following sections were changed to improve clarity, conciseness and understandability or because of an error of omission. Details of these changes are provided in Item #6 of this Notice of Final Rulemaking.

<u>Proposed Rule</u>	<u>Final Rule</u>
Section	Title Change
Section 3(A)	Title and Text Change
Section 3(B)	Title and Text Change
Section 3(C)	Title Change
Section 3(D)	Title Change

13. A Summary of the comments made regarding the rule and the department response to them:

No comments were received during the formal comment period.

14. Any other matters prescribed by the statute that are applicable to the specific department or to any specific rule or class of rules:

No

15. Incorporations by reference and their location in the rule:

EPA Standards Of Performance For Wood Heaters in 40 Code Of Federal Regulations (CFR) 60, Subpart AAA as amended through July 1, 2006 is referenced in Section 2(B)(1).

16. Was this rule previously an emergency rule?

No

17. The full text of the rule follows:

MARICOPA COUNTY
P-26
RESIDENTIAL WOODBURNING RESTRICTION ORDINANCE

SECTION 1 - GENERAL

- A. PURPOSE
- B. APPLICABILITY

SECTION 2 - DEFINITIONS

- A. ADEQUATE SOURCE OF HEAT
- B. APPROVED WOODBURNING DEVICE
- C. AREA A
- D. BURN DOWN PERIOD
- E. CARBON MONOXIDE (CO) STANDARD
- F. CHIMNEY
- G. INAPPROPRIATE FUEL
- H. NONATTAINMENT AREA
- I. OUTDOOR FIRE PITS
- J. OZONE STANDARD
- ~~I.K.~~ PARTICULATE MATTER NO-BURN STANDARD
- ~~J.L.~~ PARTICULATE MATTER ~~STANDARD~~ STANDARDS
- ~~K.M.~~ RESIDENTIAL WOODBURNING DEVICE
- ~~L.N.~~ RESTRICTED-BURN PERIOD
- ~~M.O.~~ SOLE SOURCE OF HEAT
- P. WOODBURNING CHIMINEA

SECTION 3 - ~~RESTRICTED BURN PERIODS~~ BURNING RESTRICTIONS

- A. ~~RESTRICTED OPERATION OF A RESIDENTIAL WOODBURNING DEVICE~~
DURING RESTRICTED-BURN PERIODS
- B. ~~UNLAWFUL OPERATION OF A RESIDENTIAL WOODBURNING DEVICE~~
- C. ~~LAWFUL OPERATION OF SPECIFIED RESIDENTIAL WOODBURNING DEVICES~~
- D. DECLARATION OF A RESTRICTED-BURN PERIOD
- E. VIOLATIONS, NOTICES, AND PENALTIES

SECTION 4 - EXEMPTIONS

- A. RESIDENTIAL SOLE SOURCE OF HEAT EXEMPTION
- B. TEMPORARY SOLE SOURCE OF HEAT EXEMPTION
- C. EMERGENCY EXEMPTION
- D. INADEQUATE ALTERNATE SOURCE OF HEAT EXEMPTION
- E. APPLICATION FOR AN EXEMPTION
- F. ACTION ON AN EXEMPTION APPLICATION

Adopted 10/05/94
Revised 04/21/99
Revised 11/17/99
Revised 03/26/08

MARICOPA COUNTY
P-26
RESIDENTIAL WOODBURNING RESTRICTION ORDINANCE

SECTION 1 - GENERAL

- A. **PURPOSE:** The Residential Woodburning Restriction Ordinance restricts residential woodburning in a non-approved device, outdoor fire pits, woodburning chimineas, and similar outdoor fires when monitoring or forecasting indicates that ~~the air quality carbon monoxide (CO) standard and/or the particulate matter no burn standard~~ standards are likely to be exceeded.
- B. **APPLICABILITY:** The Residential Woodburning Restriction Ordinance applies to any residential woodburning device, outdoor fire pits, woodburning chimineas, and similar outdoor fires in sections of Area A that are within Maricopa County or within incorporated cities and towns in such sections. The Residential Woodburning Restriction Ordinance does not apply to barbecue devices and mesquite grills.

SECTION 2 - DEFINITIONS: For the purpose of this ordinance, the following definitions shall apply:

- A. **ADEQUATE SOURCE OF HEAT** - A permanently installed furnace or heating system, connected to or disconnected from its energy source, designed to heat utilizing oil, natural gas, electricity, or propane, and designed to maintain a minimum of 70° Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence.
- B. **APPROVED WOODBURNING DEVICE** - The following residential devices shall be approved woodburning devices, even though such devices may burn a solid fuel other than wood:
1. A device that has been certified by the Environmental Protection Agency (EPA) as conforming to Phase II EPA Standards Of Performance For Wood Heaters in 40 Code Of Federal Regulations (CFR) 60, Subpart AAA as amended through ~~July 1, 1998~~ July 1, 2006.
 2. Any pellet stove.
 3. Any gas burning hearth appliances, including a dedicated gas logset permanently installed in any kind of indoor or outdoor woodburning fireplace which is designed to burn exclusively natural gas or propane.
 4. Any masonry heater or any other solid fuel burning device that meets performance standards that are equivalent to the standards in 40 CFR 60, Subpart AAA as amended through ~~July 1, 1998~~ July 1, 2006, and that is approved by the Control Officer and the Administrator of EPA.
- C. **AREA A** - As defined in Arizona Revised Statutes (ARS) §49-541(1), the area in Maricopa County delineated as follows:
- Township 8 North, Range 2 East and Range 3 East
Township 7 North, Range 2 West through Range 5 East
Township 6 North, Range ~~2-5~~ West through Range 6 East
Township 5 North, Range ~~2-5~~ West through Range 7 East

Township 4 North, Range ~~2~~ 5 West through Range 8 East
 Township 3 North, Range ~~2~~ 5 West through Range 8 East
 Township 2 North, Range ~~2~~ 5 West through Range 8 East
 Township 1 North, Range ~~2~~ 5 West through Range 7 East
 Township 1 South, Range ~~2~~ 5 West through Range 7 East
 Township 2 South, Range ~~2~~ 5 West through Range 7 East
Township 3 South, Range 5 West through Range 1 East
Township 4 South, Range 5 West through Range 1 East

- D. BURN DOWN PERIOD** - That period of time, not to exceed three hours after declaring a restricted-burn period, required for the cessation of combustion within any residential woodburning device, outdoor fire pit, woodburning chiminea, or similar outdoor fire by withholding fuel or by modifying the air-to-fuel ratio.
- E. CARBON MONOXIDE (CO) STANDARD** - The maximum allowable eight-hour concentration that is nine parts of contaminant per million parts of air by volume (ppm).
- F. CHIMNEY** - A passage for smoke that is usually made of bricks, stone, or metal and often rises two feet above the roof of a building. An approved, factory-built chimney will have a label on each chimney connector and gas vent specifying that such chimney can be used for all fuels and will show the minimum safe clearances to combustibles.
- G. INAPPROPRIATE FUEL** - Includes, but is not limited to, leaves, grass clippings, green plants, refuse, paper, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, animal carcasses, coal, waste oil, liquid or gelatinous hydrocarbons, tar, ~~asphaltic~~ asphalt products, waste petroleum products, paints and solvents, chemically soaked wood, wood with a moisture content of greater than ~~30~~ 20 percent, treated wood, plastic or plastic products, rubber or rubber products, office records, sensitive or classified wastes, or any substance which normally emits dense smoke or obnoxious odors other than paper to start the fire or properly seasoned wood.
- H. NONATTAINMENT AREA** - An area so designated by the Administrator of the EPA, acting pursuant to Section 107 of the Clean Air Act, as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.
- I. OUTDOOR FIRE PITS** - Any combustion of material outdoors, where solid fuels including wood or any other non-gaseous or non-liquid fuels are burned in the fuel bed, and the products of combustion are not directed through a flue or chimney.
- J. OZONE STANDARD** - The maximum allowable eight-hour concentration within a 24-hour period (midnight to midnight) that is 0.08 parts of contaminant per million parts of air by volume (ppm).
- ~~I.~~ K. PARTICULATE MATTER NO-BURN STANDARD** - ~~The~~ If either of the following maximum allowable 24-hour concentration that concentrations is forecast for particulate matter:
PM₁₀ - 120 micrograms per cubic meter;
PM_{2.5} - 30 micrograms per cubic meter.
- ~~J.~~ L. PARTICULATE MATTER STANDARD STANDARDS** - The maximum allowable 24-hour concentration that is:
PM₁₀ - 150 micrograms per cubic meter; or
PM_{2.5} - 35 micrograms per cubic meter.
- ~~K.~~ M. RESIDENTIAL WOODBURNING DEVICE** - A woodburning device designed for solid fuel combustion so that usable heat is derived for the interior of a residence. ~~Residential woodburning devices do not include barbecue devices, fire pits, or mesquite grills.~~ These devices can be used for aesthetic or space-heating purposes.

- L.N. RESTRICTED-BURN PERIOD** - A condition declared by the Control Officer whenever meteorological conditions are conducive to an accumulation of CO, ozone and/or particulate matter in exceedance of the standards or when air quality reaches other limits established by the Control Officer.
- M.O. SOLE SOURCE OF HEAT** - One or more residential woodburning devices which constitute the only source of heat in a residence and/or the sole source of fuel for cooking for a residence. No residential woodburning device shall be considered the sole source of heat if the residence is equipped with a permanently installed furnace or heating system which utilizes oil, natural gas, electricity, or propane and which is designed to heat the residence whether or not such furnace or heating system is connected to or disconnected from its energy source. However, this definition shall not supersede municipal or County Building Code requirements as per authority of A.R.S. §§ 9-499.01, 9-240(B)(7), 9-276(A)(13)-(A)(15), A.R.S. § 9-801 et seq.
- P. WOODBURNING CHIMINEA** – Chimineas are burning devices made from clay, aluminum, or steel and are used for warmth and aesthetics outside in yards and patios. Chimineas are designed to burn solid fuels.

SECTION 3 – RESTRICTED BURN PERIODS BURNING RESTRICTIONS:

- A. RESTRICTED OPERATION OF A RESIDENTIAL WOODBURNING DEVICE DURING RESTRICTED-BURN PERIODS:** ~~During a declared restricted-burn period from October 1 through February 29, a person shall be restricted from operating a residential woodburning device, an outdoor fire pit, a woodburning chiminea, or similar outdoor fire, in sections of Area A that are within Maricopa County or within incorporated cities and towns in such sections. Exemptions to this requirement are described in Section 3(C) (Lawful Operation Of Specified Residential Woodburning Devices) and Section 4 of this ordinance.~~
- B. UNLAWFUL OPERATION: OF A RESIDENTIAL WOODBURNING DEVICE** A person shall:
1. ~~A person shall not~~ Not operate a residential woodburning device, an outdoor fire pit, a woodburning chiminea, or similar outdoor fire such that emissions to the atmosphere ~~from the chimney, flue, or exhaust duct~~ are visible during a restricted-burn period declared by the Control Officer.
 2. ~~A person shall not~~ Not operate a residential woodburning device, an outdoor fire pit, a woodburning chiminea, or similar outdoor fire unless such ~~device~~ residential woodburning device, outdoor fire pit, woodburning chiminea, or similar outdoor fire has been installed according to the instructions and restrictions specified by the manufacturer.
 3. ~~A person shall not~~ Not use a fuel in a residential woodburning device, an outdoor fire pit, a woodburning chiminea, or similar outdoor fire except those fuels that are recommended by the manufacturer.
 4. ~~A person shall not~~ Not burn inappropriate fuel in a residential woodburning device, an outdoor fire pit, a woodburning chiminea, or similar outdoor fire.
- C. LAWFUL OPERATION: OF SPECIFIED RESIDENTIAL WOODBURNING DEVICES:**
1. During a declared restricted-burn period ~~from October 1 through February 29~~, a person may operate a residential woodburning device if the Control Officer has issued an exemption for such device according to Section 4 of this ordinance and if no visible emissions to the atmosphere are produced after 20 consecutive minutes immediately following an ignition of or a refueling of such residential woodburning device.

- 2 During a declared restricted-burn period ~~from October 1 through February 29~~, a person may operate a residential woodburning device if such device meets the requirements of Maricopa County Air Pollution Control Regulations Rule 318 (Approval Of Residential Woodburning Devices) and if no visible emissions to the atmosphere are produced after 20 consecutive minutes immediately following an ignition of or a refueling of such residential woodburning device.
3. During a declared restricted-burn period, a person may operate a residential woodburning device, outdoor fire pit, woodburning chiminea, or similar outdoor fire, if such device is designed to burn exclusively natural gas or propane.

D. DECLARATION OF A RESTRICTED-BURN PERIOD:

1. The Control Officer shall declare a restricted-burn period if, after reviewing available meteorological data, atmospheric conditions, and ambient temperatures, the Control Officer determines that air pollution levels could exceed the carbon monoxide (CO) standard, the ozone standard, and/or the particulate matter no-burn standard.
2. A person responsible for a residential woodburning device, outdoor fire pit, woodburning chiminea, or similar outdoor fire, excluding those devices described in Section 3(C) of this ordinance, already in operation at the time a restricted-burn period is declared shall withhold new fuel from the residential woodburning device, outdoor fire pit, woodburning chiminea, or similar outdoor fire for the duration of the restricted-burn period.
3. Any person operating or in control of a residential woodburning device, outdoor fire pit, woodburning chiminea, or similar outdoor fire in sections of Area A that are within Maricopa County ~~and~~ or within incorporated cities and towns in such sections has a duty to know when a restricted-burn period has been declared.
4. Notice of a restricted-burn period shall be distributed over the wire service to electronic and print media and/or announced by a recorded telephone message at least three hours before initiating any enforcement action for a violation of this ordinance.

E. VIOLATIONS, NOTICES, AND PENALTIES: For purposes of this ordinance, and in accordance with ~~ARS §11-871(C)~~ A.R.S. §11-871(D):

1. When the Control Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this ordinance, the Control Officer shall issue, for the first violation of this ordinance, a warning notice which includes a summary of the Maricopa County Residential Woodburning Restriction Ordinance and information on proper woodburning techniques.
2. The Control Officer may impose a civil penalty of \$50 to any person who violates this ordinance for the second violation ~~of this ordinance to any person who violates this ordinance~~ within a one year period after having been issued a warning notice for the first violation of this ordinance. ~~In addition, the Control Officer may impose a civil penalty of \$100 for the third and subsequent violations of this ordinance. After having been issued a citation for a violation of this ordinance, the violation may be refuted by demonstration that the smoke was not caused by a residential woodburning device or by proof of an exemption pursuant to Section 4 of this ordinance.~~
3. ~~Only those violations of this ordinance which have occurred within one year of a present offense shall be considered as prior violations. No person shall be cited for a violation of this ordinance more than once in any calendar day. Each day of violation constitutes a separate offense. For the third violation of this ordinance, the Control Officer may impose a civil~~

penalty of \$100. The Control Officer may impose a civil penalty of \$250 for the fourth or any subsequent violation of this ordinance. After having been issued a citation for a violation of this ordinance, the violation may be refuted by demonstration that the smoke was not caused by a residential woodburning device, an outdoor fire pit, a woodburning chiminea, or similar outdoor fire or by proof of an exemption pursuant to Section 4 of this ordinance.

4. Only those violations of this ordinance which have occurred within one year of a present offense shall be considered as prior violations. No person shall be cited for a violation of this ordinance more than once in any calendar day. Each day of violation constitutes a separate offense.

SECTION 4 - EXEMPTIONS

- A. RESIDENTIAL SOLE SOURCE OF HEAT EXEMPTION:** The Control Officer may grant a residential sole source of heat exemption if the Control Officer determines that a residential woodburning device meets the criteria of sole source of heat as described in ~~Section 2(M)~~ Section 2(O) of this ordinance. The recipient of a residential sole source of heat exemption must apply annually to the Control Officer for renewal of such exemption, if such exemption is still necessary. The Control Officer shall not issue a residential sole source of heat exemption after December 31, 1995. However, the Control Officer may renew a residential sole source of heat exemption if such exemption was issued before December 31, 1995 and if the residential woodburning device meets the criteria of sole source of heat as described in ~~Section 2(M)~~ Section 2(O) of this ordinance.
- B. TEMPORARY SOLE SOURCE OF HEAT EXEMPTION:** The Control Officer may issue a temporary sole source of heat exemption for economic or health reasons if the Control Officer determines that the applicant qualifies for financial assistance, according to the economic guidelines established under the Food Stamps, Medicaid, or low income energy assistance programs, as administered by the Income Support Division, or if the Control Officer determines that failure to grant a temporary sole source of heat exemption would endanger the health of the applicant. A temporary sole source of heat exemption shall not be issued for more than 150 days.
- C. EMERGENCY EXEMPTION:** The Control Officer may issue an emergency exemption if the Control Officer determines that an emergency situation exists. An emergency exemption shall be valid for a period determined by the Control Officer, but shall not exceed one year from the date it is issued. An emergency situation shall include, but is not limited to, the following:
 1. A situation where a person demonstrates that his heating system, other than a residential woodburning device, is inoperable for reasons other than his own actions; or
 2. A situation where a person demonstrates that his heating system has been involuntarily disconnected by a utility company or other fuel supplier.
- D. INADEQUATE ALTERNATE SOURCE OF HEAT EXEMPTION:** The Control Officer may issue an inadequate alternate source of heat exemption if the Control Officer determines:
 1. That there is a heat source other than a residential woodburning device available to the residence;
 2. That such heat source is not a sole source of heat, as defined in ~~Section 2(L)~~ Section 2(O) of this ordinance, and that such heat source is used in conjunction with a residential woodburning device;
 3. That such heat source is not an approved woodburning device, as defined in Maricopa County Air Pollution Control Regulations Rule 318 (Approval Of Residential Woodburning Devices); and

4. That such heat source is not an adequate source of heat, as defined in Section 2(A) of this ordinance.

The recipient of an inadequate alternate source of heat exemption must comply with ~~all~~ municipal or County Building Code requirements (as per authority of A.R.S. §§ 9-499.01, 9-240(B)(7), 9-276(A)(13)--(A)(15), A.R.S. § 9-801 et seq.) and must apply annually to the Control Officer for renewal of such exemption, if such exemption is still necessary. The Control Officer shall not issue an inadequate alternate source of heat exemption after December 31, 1995. However, the Control Officer may renew an inadequate alternate source of heat exemption, if such exemption was issued before December 31, 1995 and if the residential woodburning device meets the criteria of this ordinance.

- E. **APPLICATION FOR AN EXEMPTION:** Any person seeking an exemption shall do so by submitting an acceptable written application to the Control Officer. An application shall state:
 1. The applicant's name and mailing address;
 2. The address for which the exemption is sought; and
 3. The reasons for seeking the exemption.
- F. **ACTION ON AN EXEMPTION APPLICATION:** Following the receipt of an exemption application, the Control Officer shall either grant the exemption, grant the exemption subject to conditions, or deny the exemption. The Control Officer shall notify, in writing, the applicant of such decision.