BY AUTHORITY

ORDINANCE NO. 31
SERIES OF ~~1991~~ 1992

COUNCIL BILL NO. 25
INTRODUCED BY COUNCIL
MEMBER HATHAWAY

AN ORDINANCE AMENDING TITLE 6, CHAPTER 1, OF THE ENGLEWOOD MUNICIPAL CODE 1985, BY ADDING A NEW SECTION 11 RELATING TO A BAN ON WOOD BURNING ON HIGH POLLUTION DAYS.

WHEREAS, the health, safety and welfare of the citizens of Englewood are adversely affected by poor air quality within the city limits; and

WHEREAS, it is necessary for the Denver Metropolitan area to make reasonable efforts to attain the standards established in the Federal Clean Air Act or lose federal highway funds; and

WHEREAS, residential wood combustion produces particulate matter and carbon monoxide that contributes to the deterioration of air quality which is physically harmful and aesthetically unpleasant;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. Title 6, Chapter 1 Englewood Municipal Code 1985, is hereby amended by adding a new Section 11 to read as follows:

6—1—11: WOOD BURNING AND SOLID FUEL-FIRED HEATING DEVICES

A. **DEFINITIONS.** AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE MEANINGS AS INDICATED:

BARBECUE DEVICES	DEVICES THAT ARE UTILIZED SOLELY FOR THE PURPOSE OF COOKING FOOD.
COLORADO PHASE III AND EPA PHASE II EMISSIONS STANDARDS	EMISSIONS WHICH CONTAIN NOT MORE THAN EIGHT (8) GRAMS PER HOUR OF PARTICULATES AND NOT MORE THAN ONE HUNDRED (100) GRAMS PER HOUR OF CARBON MONOXIDE.
HIGH POLLUTION DAY	THAT PERIOD OF TIME DECLARED TO BE A HIGH POLLUTION DAY BY THE COLORADO DEPARTMENT OF HEALTH.
PERSON	AN INDIVIDUAL, PARTNERSHIP, CORPORATION, COMPANY OR OTHER ASSOCIATION.
SOLE SOURCE OF HEAT	ONE (1) OR MORE RESIDENTIAL SOLID FUEL-FIRED HEATING DEVICES WHICH CONSTITUTE THE ONLY SOURCE OF HEAT IN A PRIVATE RESIDENCE FOR THE PURPOSE OF SPACE HEATING. A RESIDENTIAL SOLID FUEL-FIRED HEATING 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, DESIGNED TO HEAT THE RESIDENCE, BUT IS

DISCONNECTED FROM ITS ENERGY SOURCE. E.G. HEATING OIL, NATURAL GAS, ELECTRICITY OR PROPANE.

SOLID FUEL — ANY COMBUSTIBLE SUBSTANCE OR MATERIAL, INCLUDING BUT NOT LIMITED TO WOOD, COAL AND PAPER, SO THAT USABLE HEAT IS DERIVED FOR THE INTERIOR OF A BUILDING.

SOLID FUEL-FIRED HEATING DEVICE — A DEVICE DESIGNED FOR SOLID FUEL COMBUSTION SO THAT USABLE HEAT IS DERIVED FOR THE INTERIOR OF A BUILDING, AND INCLUDES SOLID FUEL-FIRED STOVES, FIREPLACES, SOLID FUEL-FIRED COOKING STOVES AND COMBINATION FUEL FURNACES OR BOILERS WHICH BURN SOLID FUEL. SOLID FUEL-FIRED HEATING DEVICES DO NOT INCLUDE BARBECUE DEVICES OR NATURAL GAS FIRED OR FIREPLACE LOGS.

B. **HIGH POLLUTION PROHIBITION.**

1. AFTER THE EFFECTIVE DATE OF THIS SECTION, NO PERSON MAY OPERATE A SOLID FUEL-FIRED HEATING DEVICE DURING A HIGH POLLUTION DAY UNLESS AN EXEMPTION HAS BEEN GRANTED PURSUANT TO SECTION (C) BELOW. IT SHALL BE THE DUTY OF ALL PERSONS OWNING OR OPERATING A SOLID FUEL-FIRED DEVICE TO BE AWARE OF ANY DECLARATION OF A HIGH POLLUTION DAY BY THE COLORADO DEPARTMENT OF HEALTH.

2. AT THE TIME OF THE DECLARATION OF A HIGH POLLUTION DAY, THE CITY MANAGER SHALL ALLOW THREE (3) HOURS FOR THE BURN DOWN OF EXISTING FIRES IN SOLID FUEL-BURNING DEVICES PRIOR TO THE INITIATION OF ENFORCEMENT.

C. **EXEMPTIONS.**

1. A PERSON WHO HAS AN ECONOMIC NEED TO BURN SOLID FUEL FOR RESIDENTIAL SPACE HEATING PURPOSES OR WHO RELIES ON A SOLID FUEL-FIRED HEATING DEVICE AS HIS OR HER SOLE SOURCE OF HEAT MAY APPLY FOR A TEMPORARY EXEMPTION FROM SECTION B OF THIS ORDINANCE.

(a) A PERSON MAY DEMONSTRATE ECONOMIC NEED BY CERTIFYING HIS OR HER 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 ARAPAHOE COUNTY.

(b) A PERSON MAY DEMONSTRATE THAT HE OR SHE RELIES ON A SOLID FUEL-FIRE OR SOLAR HEATING DEVICE AS HIS OR HER SOLE SOURCE OF HEAT BY SIGNING A SWORN STATEMENT TO THAT EFFECT.

2. A PERSON IS EXEMPT FROM SECTION B OF THIS ORDINANCE TO BURN A SOLID FUEL-FIRE HEATING DEVICE PROVIDED THAT DEVICE HAS BEEN CERTIFIED TO MEET COLORADO PHASE III EMISSION STANDARDS OR EPA PHASE II STANDARDS FOR WOODSTOVES AND FIREPLACE INSERTS.

3. AN EXEMPTION OBTAINED UNDER THIS SECTION SHALL BE EFFECTIVE FOR TWELVE (12) MONTHS FROM THE DATE IT IS GRANTED.

D. **DEFENSE.** IT SHALL BE AN AFFIRMATIVE DEFENSE TO A CHARGE OF BURNING ON A HIGH POLLUTION DAY UNDER SECTION B ABOVE, THAT A POWER OUTAGE, INTERRUPTION OF NATURAL GAS SUPPLY, OR TEMPORARY EQUIPMENT FAILURE EXISTED AT THE TIME AND LOCATION OF THE VIOLATION, WHICH DID NOT RESULT FROM ANY ACTION OF THE PERSON CHARGED WITH THE VIOLATION.

E. **INSPECTIONS.** FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER, THE CITY MANAGER, THROUGH AUTHORIZED REPRESENTATIVES, IS HEREBY AUTHORIZED TO MAKE INSPECTIONS OF SOLID FUEL-FIRED HEATING DEVICES WHICH ARE BEING OPERATED ON HIGH POLLUTION DAYS. 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 CITY MANAGER, THROUGH AUTHORIZED REPRESENTATIVES, SHALL SEEK FROM THE MUNICIPAL COURT A WARRANT FOR INSPECTION. THE COURT SHALL HAVE FULL POWER, JURISDICTION, AND AUTHORITY TO ENFORCE ALL ORDERS ISSUED UNDER THE PROVISIONS OF THIS CHAPTER.

F. **ENFORCEMENT.**

1. ANY PERSON VIOLATING ANY PROVISION OF THIS SECTION SHALL BE PUNISHED BY THE PENALTIES SET FORTH IN TITLE 1, CHAPTER 4 OF THE ENGLEWOOD MUNICIPAL CODE.

2. THE MUNICIPAL COURT JUDGE SHALL TAKE JUDICIAL NOTICE OF ANY DECLARATION OF A HIGH POLLUTION DAY ISSUED BY THE COLORADO DEPARTMENT OF HEALTH.

Introduced, read in full, and passed on first reading on the 6th day of July 1992.

Published as a Bill for an Ordinance on the 9th day of July, 1992.

Read by title and passed on final reading on the 20th day of July, 1992.

Published by title as Ordinance No. 31, Series of 1992, on the 23rd day of July 1992.

Clyde E. Wiggins, Mayor

ATTEST:

Patricia H. Crow, City Clerk

I, Patricia H. Crow, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. 31, Series of 1992.

Patricia H. Crow