

ORDINANCE NO. 5007

AN EMERGENCY ORDINANCE ENACTING A NEW CHAPTER 6-9 AND ADDING A NEW SECTION 10-3-13, B.R.C. 1981, FOR THE PROTECTION OF THE QUALITY OF THE AIR IN THE CITY OF BOULDER.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
COLORADO:

Section 1. Chapter 6-9 is enacted to read:

TITLE 6 HEALTH, SAFETY, AND SANITATION

Chapter 9 Air Quality

6-9-1 Legislative Intent.

- (a) It is the intent of the city council to regulate activities contributing to the degradation of the air quality within the city limits in order to preserve the health, safety, and welfare of its inhabitants.
- (b) The city council finds that air pollution presents a threat to the health of the inhabitants of the city. As of March 3, 1978, the city was classified as a nonattainment area in carbon monoxide, ozone, and particulates. Federal standards must be met or various federal funding programs may be cut back. It is the intent of the city council to implement requirements that will enable the city to meet federal standards by reducing the total amount of hazardous materials in the atmosphere. The city council finds that there now exist woodstoves which have emissions that are ninety-five percent less than the emissions of conventional devices.
- (c) It is the intent of city council to preserve and improve visibility, particularly scenic vistas.
- (d) It is the intent of city council to allow low income persons to heat their homes if wood is the primary source of heat for their homes.
- (e) The city council finds that there are federal and state laws that regulate certain activities that affect the quality of the air, but those laws do not exclude local government regulation, if such local regulation is not inconsistent therewith. The city council further finds that the provisions of this chapter address the city's local concerns, including, without limitation, certain limitations on activities that have an impact on the quality of the air and the implementation of effective enforcement. The city council finds that the provisions of this chapter are not inconsistent with federal and state law.

6-9-2 Definitions.

- (a) The following words and phrases have the following meanings unless the context clearly indicates otherwise:

- (1) "Barbeque device" means a device that is used solely for the purpose of cooking food.
- (2) "Fireplace" means a hearth, fire chamber, or similarly prepared place and a chimney.
- (3) "Phase I certified device" means an airtight woodstove, including without limitation a fireplace insert, which the user can verify to a reasonable scientific certainty has particulate emissions that do not exceed the following standards:
 - (i) Prior to July 1, 1988, no woodstove with a minimum heat output of 40,000 Btu per hour or less shall be certified unless the stove meets the following standards:
 - (A) For stoves tested in accordance with Appendix A, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6, the stove shall emit particulates at a rate of 30 grams per hour or less and carbon monoxide at a rate of 400 grams per hour or less.
 - (B) For stoves tested in accordance with Appendix B, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-5, the stove shall emit particulates at a rate of 22 grams per hour or less and carbon monoxide at a rate of 400 grams per hour or less.
 - (ii) Prior to July 1, 1988, no woodstove with a minimum heat output of more than 40,000 Btu per hour, shall be certified unless the stove meets the following standards:
 - (A) For stoves tested in accordance with Appendix A, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6, with respect to particulates, the number of grams per hour emitted shall be less than or equal to the sum of 37, and 1 gram per hour for each 1000 Btu per hour heat output; with respect to carbon monoxide, the number of grams per hour emitted shall be less than or equal to the sum of 800, and 10 grams per hour for each 1,000 Btu per hour heat output.

- (B) For stoves tested in accordance with Appendix B, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6, with respect to particulates, the number of grams per hour emitted shall be less than or equal to the sum of 30, and 0.7 grams per hour for each 1000 Btu per hour heat output; with respect to carbon monoxide, the number of grams per hour emitted shall be less than or equal to the sum of 800, and 10 grams per hour for each 1,000 Btu per hour heat output.
 - (ii) And stoves with a minimum long life catalyst, a thermometer for reading the temperature of the catalyst, and a thermometer for reading the temperature of the stove.
- (4) "Phase II certified device" means an airtight woodstove, including without limitation a fireplace insert, which the user can demonstrate to a reasonable scientific certainty has particulate emissions that do not exceed the following standards:
- (i) On or after July 1, 1988, no woodstove with a minimum heat output of 40,000 Btu per hour or less, shall be certified unless the stove meets the following standards:
 - (A) For stoves tested in accordance with Appendix A, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6, the stove shall emit particulates at a rate of 12 grams per hour or less and carbon monoxide at a rate of 200 grams per hour or less.
 - (B) For stoves tested in accordance with Appendix B, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6, the stove shall emit particulates at a rate of 8.5 grams per hour or less and carbon monoxide at a rate of 200 grams per hour or less.
 - (ii) On or after July 1, 1988, no woodstove with a minimum heat output of more than 40,000 Btu per hour shall be certified unless the stove meets the following emissions standards:
 - (A) For stoves tested in accordance with Appendix A, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6,

with respect to particulates, the number of grams per hour emitted shall be less than or equal to the sum of 15, and 0.4 grams per hour for each 1000 Btu per hour heat output; with respect to carbon monoxide, the number of grams per hour emitted shall be less than or equal to the sum of 400, and 5 grams per hour for each 1,000 Btu per hour heat output.

(B) For stoves tested in accordance with Appendix B, Colorado Air Quality Control Commission, Regulation No. 4, 5CCR 1001-6, with respect to particulates, the number of grams per hour emitted shall be less than or equal to the sum of 12, and 0.3 grams per hour for each 1000 Btu per hour heat output; with respect to carbon monoxide, the number of grams per hour emitted shall be less than or equal to the sum of 400, and 5 grams per hour for each 1,000 Btu per hour heat output.

(iii) And stoves with a minimum long life catalyst, a thermometer for reading the temperature of the catalyst, and a thermometer for reading the temperature of the stove.

(5) "Primary source of heat" means that source of heat which heats more than fifty percent of the space heating load in any building.

(6) "Sole source of heat" means one or more woodstoves which constitute the only source of heating in a building. No woodstove shall be considered to be the sole source of heat if the building is equipped with a permanently installed furnace or heating system utilizing oil, natural gas, electricity, or propane, whether connected or disconnected from its energy source.

(7) "Woodstove" means a solid fuel burning device designed for solid fuel combustion so that useable heat is derived for the interior of a building, and includes, without limitation, solid fuel-fired stoves, woodstoves of any nature, solid fuel-fired cooking stoves, combination fuel furnaces or boilers which burn solid fuel, or any other device used for the burning of solid combustible material. Woodstoves do not include fireplaces, barbeque devices, or natural gas-fired fireplaces.

(d) Words defined in Chapter 1-2, B.R.C. 1981, have the meanings there expressed if not differently defined by this chapter.

6-9-3 No-Burn Days

- (a) The city manager may designate no-burn days when monitoring indicates violations within the city of air quality standards established by either the United States Environmental Protection Agency or the Colorado Department of Health, or when meteorological conditions warrant such designation.
- (b) No person shall use any woodstove or fireplace during a no-burn day unless an exemption has been granted pursuant to subsection (e) below.
- (c) No-burn days shall last for a 24-hour period. Such days may be declared to be over at any time during that period. Such days may be renewed at the end of that 24-hour period if violations still exist, or if meteorological conditions are such that it is likely that violations will continue to occur.
- (d) At the time of the declaration of a no-burn day, the city manager shall allow three hours for the burndown of existing fires prior to the initiation of enforcement.
- (e) It is a specific defense to a charge of burning on a no-burn day that:
 - (1) For offenses between January 1, 1987, and July 1, 1992, the burning occurred in a Phase II certified device; or
 - (2) The person had obtained a temporary exemption demonstrating both an economic need to burn solid fuel for building space heating purposes and a reliance on a woodstove as the primary source of heat. The city manager may grant such exemptions according to the following standards:
 - (i) A person applying for an exemption 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 Boulder County.
 - (ii) A person applying for an exemption must sign a verified affidavit demonstrating reliance on a woodstove as the primary source of heat.
 - (iii) An exemption obtained under this section shall be effective for one year from the date it is granted; or
 - (3) A power outage, interruption of natural gas supply, or temporary equipment failure existed at the time and location of the violation that did not result from any action of the person charged with the violation.

6-9-4 Woodstove Installation and Retrofit.

- (a) No person shall repair, alter, move, or install a woodstove without having first obtained a building permit in accordance with Title 10, B.R.C. 1981. No person shall replace a woodstove which is substantially destroyed, demolished, or in need of replacement, except with a Phase I or Phase II certified device as set forth in subsections (b) and (c) below. Woodstoves lawfully existing and installed as of the date of enactment of this ordinance may be repaired to the extent that such repair, in the reasonable judgment of the city manager, is necessary to prevent the existence of an unsafe condition.
- (b) As of January 1, 1987, no person shall install a woodstove in any building unless it is a Phase I or Phase II certified device.
- (c) As of July 1, 1988, no one shall install a woodstove in any building unless it is a Phase II certified device.

6-9-5 Limit on Coal Burning.

- (a) No person shall burn coal or any substance other than wood or wood products in a woodstove or a fireplace.
- (b) Between January 1, 1987, and January 1, 1988, it is a specific defense to a charge of burning coal that the woodstove or fireplace burns only coal and is the primary source of heat for that building.

6-9-6 Non-Owner Occupied Dwelling Units.

No person shall rent a building if a woodstove or fireplace is the sole source of heat. In such a case, the owner, and not the tenant, shall be liable for any penalty imposed.

6-9-7 Enforcement.

- (a) Every person convicted of a violation of any provision of this chapter shall pay a fine according to the following schedule:
 - (1) first conviction, no more than one hundred dollars;
 - (2) second conviction, no more than two hundred dollars; and
 - (3) third conviction, no more than three hundred dollars.
- (b) The date when the actual violation occurred will control regardless of the date of conviction.
- (c) The record of the violator for two years prior to the date of the current violation will be considered.
- (d) No fines shall be assessed for violations of Sections 6-9-3 and 6-9-5, B.R.C. 1981, until November 15, 1987.

Section 2. A new Section 10-3-13, B.R.C. 1981, is added to read:

10-3-13 Stove as Sole Source of Heat Prohibited.

No owner of a dwelling unit required to be licensed under this chapter shall permit a woodstove or fireplace, as defined in Section 6-9-2, B.R.C. 1981, to be the sole source of heat for such dwelling.

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

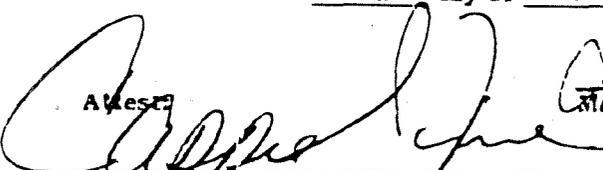
Section 4. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

Section 5. The council finds that an emergency exists due to the fact that the Better Air Program and high pollution season have already begun. Accordingly, the council finds that an emergency exists, and this ordinance shall take effect immediately upon its passage.

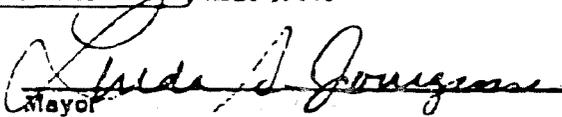
INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY

TITLE ONLY this 7th day of October, A.D. 1986.

Attest:


Director of Finance and Record
Ex-Officio City Clerk

Mayor

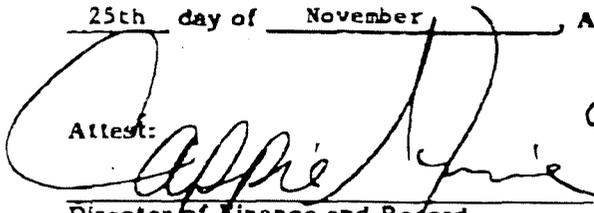


READ ON SECOND READING, AMENDED, PASSED BY A TWO-THIRDS VOTE,

ADOPTED BY EMERGENCY, AND ORDERED PUBLISHED BY TITLE ONLY this

25th day of November, A.D. 1986

Attest:


Director of Finance and Record
Ex-Officio City Clerk

Mayor



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