

BY AUTHORITY

ORDINANCE NO. 39
SERIES OF 1992

COUNCIL BILL NO. 37
INTRODUCED BY COUNCIL
MEMBER VAN DYKE

AN ORDINANCE AMENDING TITLE 6, CHAPTER 1, BY ADDING A NEW SECTION 12, TO THE ENGLEWOOD MUNICIPAL CODE 1985, WHICH GENERALLY PROHIBITS THE INSTALLATION OF SOLID FUEL BURNING DEVICES AND RESTRICTS THE REPAIR AND REPLACEMENT OF SOLID FUEL DEVICES.

WHEREAS, the local governments in the metropolitan area have recognized that air pollution must be addressed by a collective effort on both the state and local level; and

WHEREAS, further degradation of air quality will adversely affect the health, safety and welfare of existing and future residents, and will impede the ability of the City of Englewood to attract future residential and commercial development to the City of Englewood; and

WHEREAS, studies of the metropolitan area have concluded that carbon monoxide, ozone, nitrogen oxides, sulphur dioxide and particulate matter are major components of air pollution along the Front Range.

WHEREAS, residential solid fuel combustion has been found to produce significant quantities of carbon monoxide and particulates, which can be physically harmful, and in the case of particulates, contribute to visible pollution; and

WHEREAS, without restriction on solid fuel burning devices on new construction and remodeling, the air degradation attributable to such new development potentially will greatly exceed that from existing solid fuel burning within the City; and

WHEREAS, alternative fuel combustion devices, such as gaseous fireplaces are readily available and are being installed in a significant percentage of new residential construction in Englewood. Gaseous burning devices produce a fraction of the carbon monoxide and particulate emissions of solid fuel combustion devices, and do not materially degrade in performance over time;

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

Section 1. Title 6, Chapter 1, of the Englewood Municipal Code 1985, is hereby amended by adding a new Section 12, to read as follows.

6-1-12: RESTRICTIONS ON INSTALLATION OF SOLID FUEL BURNING DEVICES.

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

SOLID FUEL BURNING DEVICE	ANY FIREPLACE, STOVE, FIREBOX OR SIMILAR DEVICE DESIGNED OR USED FOR THE PURPOSE OF BURNING WOOD, COAL, PULP, PAPER OR OTHER SOLID COMBUSTIBLE MATERIAL SPECIFICALLY EXCLUDING PELLETS. ANY DEVICE WHICH MEETS THE REQUIREMENTS FOR BURNING SOLID FUEL SUCH AS CHIMNEY DIAMETER OR CONSTRUCTION UNDER THE APPLICABLE PROVISIONS OF THE UNIFORM BUILDING CODE AND/OR UNIFORM PLUMBING CODE, AND/OR UNIFORM
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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.

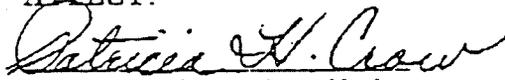
Published as a Bill for an Ordinance on the 9th day of July, 1992.

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

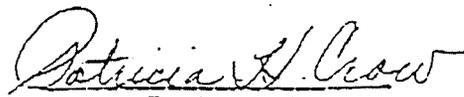
Published by title as Ordinance No. 31, Series of 1992, on the 23rd day of July 1992.


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