

CITY OF LITTLETON, COLORADO

ORDINANCE NO. 51

Series of 1988

INTRODUCED BY COUNCILMEN Tonsing and Thornton

AN ORDINANCE PROHIBITING THE INSTALLATION OF NONCONFORMING SOLID FUEL BURNING DEVICES; PROHIBITING THE OPERATION OF SOLID FUEL BURNING DEVICES ON HIGH POLLUTION DAYS; AND PROVIDING EXEMPTIONS FROM, AND ESTABLISHING FINES FOR, VIOLATIONS OF SUCH PROHIBITION.

WHEREAS, the health, safety and welfare of the citizens of the City of Littleton are adversely affected by the degradation of the air quality within the City limits; and

WHEREAS, residential wood combustion produces particulate matter which can be physically harmful, aesthetically unpleasant, and contribute to the degradation of the air quality; and

WHEREAS, the City Council desires to impose certain limitations on activities that have an impact on the quality of air and to provide for effective enforcement; and

WHEREAS, the City Council wishes to encourage the replacement of polluting devices with those that meet or exceed the standards of the State of Colorado.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLETON, COLORADO, THAT:

Section 1: Title 4 of the Littleton Municipal Code is hereby amended by the addition of a new Chapter 5:

4-5-1: Short Title. This ordinance shall be known and may be cited as the "Littleton Woodburning Ordinance."

4-5-2: Definitions. The following words and phrases have the following meanings unless the context clearly indicates otherwise:

- A. "Approved solid fuel burning device" shall mean a solid fuel burning device which has been certified by the Colorado Department of Health in accordance with procedures specified in Colorado Air Quality Control Commission Regulations as meeting the emissions standards for certification under such regulation.

- B. "Burn down time" shall mean that period of time not to exceed three hours following the declaration of a high pollution day required for the cessation of combustion within any solid fuel burning device pursuant to this ordinance.
- C. "Exemption Permit" shall mean any symbol adopted by the City Manager for purposes of notification of exemption from the no burn regulations herein, which may include signs, placards, decals, or other appropriate symbols easily visible from the street side of the property upon which it is installed or placed.
- D. "Exempt solid fuel burning devices" shall mean those devices specifically exempted from regulation by the Commission in accordance with applicable state law.
- E. "Fireplace" shall mean a structure designed for the burning of wood (whether or not it is an integral part of the construction of a building) which would commonly be considered a fireplace.
- F. "High pollution day" shall mean that period of time declared by the City Manager or the Colorado Department of Health to be a high pollution day.
- G. "Nonconforming solid fuel burning device" shall mean any solid fuel burning device which is not an approved solid fuel burning device.
- H. "Person" shall mean an individual, partnership, corporation, company, or other association.
- I. "Sole source of heat" shall mean one or more residential solid fuel burning devices which constitute the only source of heat in a private residence. No residential 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 designed to heat the residence or any part thereof, connected or disconnected from its energy source, utilizing oil, natural gas, electricity or propane.

J. "Solid fuel burning device" shall mean any solid fuel burning device, including but not limited to, free-standing fireplaces, airtight stoves, franklin stoves, masonry fireplaces, pre-fabricated zero clearance fireplaces, any similar fireplace the operation of which requires it to be built in the structure as a component of the building, a fireplace insert or another device intended for use to heat interior habitable space or for aesthetic enjoyment, provided such device is capable of burning solid fuel such as wood, coal, or any other solid fuel. Solid fuel burning devices shall not include natural gas devices or solid fuel cooking devices.

4-5-3: Installation of New Solid Fuel Burning Devices
After the effective date of this ordinance, no person shall install a solid fuel burning device unless authorized to do so in a building permit. No building permit shall be issued authorizing the installation of a solid fuel burning device, unless such device is an approved solid fuel burning device or an exempt solid fuel burning device. Fireplaces shall be deemed approved solid fuel burning devices for purposes of installation only until such time as the Colorado Air Quality Control Commission (the "Commission") promulgates emissions standards for fireplaces. As of the compliance date specified in such regulations, only those fireplaces certified by the Colorado Department of Health as having emissions which do not exceed the emissions standards shall be considered to be approved solid fuel burning devices.

4-5-4: Solid Fuel Burning During High Pollution Days Prohibited.

A. It shall be unlawful for any person to operate a solid fuel burning device during a high pollution day unless an exemption permit has been issued pursuant to Section 4-5-5 below. It shall be the duty of all persons owning or operating a solid fuel burning device to be aware of any declaration of a high pollution day by the Littleton City Manager or the Colorado Department of Health. Any such declaration shall constitute constructive notice of the existence of a high

2. Approved or exempt solid fuel burning devices. Any person who operates an approved or exempt solid fuel burning device shall be eligible for an exemption from the prohibition of operation contained in subsection 1 of this section. Persons entitled to an exemption under this section shall be issued an exemption permit which must be displayed on the premises to which the exemption applies and be visible from a place of public access on high pollution days.
3. Fireplaces. Fireplaces shall not be eligible for exemption from the provisions of this section until such time as emissions standards for fireplaces are promulgated by the Commission. Thereafter, only those fireplaces which have been certified by the Colorado Department of Health as having emissions that do not exceed the emissions standards shall be exempt from the provisions of this section.

B. The fee for an exemption permit shall be \$25.00. This fee shall not include the costs of any inspection or testing which may be required by regulations promulgated pursuant to Section 4-5-4(D) hereof. Any such costs shall be in addition to said fee and paid prior to said inspection or test. No fee shall be charged for a "sole source of heat" exemption.

- C. An exemption shall remain in effect until:
1. A residence which has a "sole source of heat" exemption installs a permanent heating system using oil, natural gas, electricity or propane; or
 2. A visible emission violation is detected for the third time in a single burning season (October through March) at a premise with an exemption permit for an "approved solid fuel burning device"; or

- 3. More stringent Federal or State laws or regulations are adopted or promulgated.

4-5-6: Investigation and Compliance.

For the purpose of determining compliance with the provisions of this ordinance City inspectors are hereby authorized to make inspections. 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 shall seek from the municipal court a search warrant authorizing an inspector to enter the premises and comply with this section. The court shall have full power, jurisdiction and authority to enforce all orders issued under the provisions of this section.

Section 2: Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

Section 3: Repealer. All acts, orders, resolutions, or parts thereof taken by the City and in conflict with this ordinance are hereby repealed, except that this repealer shall not be construed so as to revive any act, order, ordinance, resolution or part thereof heretofore repealed.

INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council of the City of Littleton on the 15th day of November, 1988, passed on first reading by a vote of 7 FOR and 0 AGAINST; and ordered published in full in the Independent of November 18, 1988.

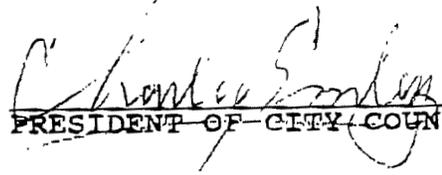
PUBLIC HEARING on the Ordinance to take place on the 6th day of December, 1988, in the Council Chambers, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado, at the hour of 7:30 p.m., or as soon thereafter as it may be heard.

227

as amended
PASSED on second and final reading, following public
hearing, by a vote of 5 FOR and 1 AGAINST on the 6th day
of December, 1988; and ordered published by reference only in
the Independent on the 9th day of December, 1988.

ATTEST:


CITY CLERK


~~PRESIDENT OF CITY COUNCIL~~

APPROVED AS TO FORM:


CITY ATTORNEY

CD/A:520.