

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR LAKE COUNTY, OREGON

In the Matter of Prohibiting the Use of Solid Fuel     )  
Burning devices; Providing Certain Exemptions     )     ORDINANCE  
And Establishing Enforcement Controls             )     NO. 105  
Therefore   )

WHEREAS, the health, safety and welfare of the citizens of the Lake County are adversely affected by the deterioration air quality within the Urban Growth Boundary of the Town of Lakeview; and

WHEREAS, wood combustion for space heating produces particulate matter and other pollutants which are injurious to the public health, and are a primary cause of deteriorated air quality within the Urban Growth Boundary of the Town of Lakeview; and

WHEREAS, a mandatory wood burning curtailment ordinance is essential to comply with the provisions of the federal Clean Air Act and assure healthful air quality; now, therefore,

LAKE COUNTY ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS:

As used in this ordinance, the following words, except where the context clearly indicates otherwise, mean:

- (a) Air Pollution Alert: a 24-hour period commencing at noon by the Town of Lakeview of a Yellow Day or Red Day Air Quality Advisory.
- (b) Air Quality Advisory: A public announcement to inform Lakeview Urban Growth Boundary residents of forecasted air quality.
- (c) Alternative Heat Source: A heat source other than a Solid Fuel Burning Device, with such heat source being capable of heating a residence in accordance with Oregon Building Code standards.
- (d) Green Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24-hour period.
- (e) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM2.5 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM2.5 concentrations are expected to reach levels of health concern, but which are not expected to approach 30  $\mu\text{g}/\text{m}^3$
- (f) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM2.5 concentrations at levels which are a risk of reaching and/or exceeding 30  $\mu\text{g}/\text{m}^3$ .
- (g) Person: Any individual, partnership, corporation, company or other association.
- (h) Oregon Certified Wood Stove; A Solid Fuel Burning Device certified by the United States Environmental Protection Agency or the Oregon Department of Environmental Quality as meeting emission performance standards specified in Oregon Administrative Rules, 340, division 262, now in effect or which may be amended from time to time.

- (i) Residence: A building used as a home, dwelling or place of abode.
- (j) Sole Source of Heat: One or more Solid Fuel Burning Devices, which constitutes the only source of heat in a Residence. A Sole Heat Source is one which provides heat to the main living space of the Residence but does not include ancillary heating units in bed and bathroom areas.
- (k) Solid Fuel Burning Device: A device designed for solid fuel combustion so that useable heat is derived for the interior of a Residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplace logs or pellet stoves.
- (l) Warning: An official notification that a person has been found by the Town of Lakeview or Lake County to be burning on a non-authorized day.

**SECTION 2: OPERATION OF SOLID FUEL BURNING DEVICE PROHIBITION:**

- (a) The operation of a Solid Fuel Burning Device within the Urban Growth Boundary of the Town of Lakeview during an Air Pollution Alert Period shall be prohibited unless an exemption has been granted by the Town of Lakeview pursuant to Section 3 below. A rebuttal presumption of a violation for which a warning or citation shall be issued shall arise if smoke is being discharged through a flue or chimney at any time during an Air Pollution Alert Period. Any person residing in the premises who is over the age of 18 shall be presumed to be the violator unless rebutted by contrary evidence.
- (b) Visible smoke emissions created during a ten (10) minute start-up period.
- (c) On or after two years from the effective date of this ordinance, no property owner shall rent or lease a Residence unless the same is equipped with an Alternative Heat Source. If the owner violates this subsection, the tenant shall not be charged with a violation thereof.

**SECTION 3. EXEMPTIONS FROM PROHIBITION:**

It shall be permissible for a Residence to operate a Solid Fuel Burning Device during a Red or Yellow Day when the head of that household has previously obtained from the Town of Lakeview Air Quality office an annually issued exemption to operate the same. Exemptions are issued with conditions of operation by the Town of Lakeview authorities for those residing in the Urban Growth Boundary. Operating conditions for the burning in these devices may include but not be limited to the type of fuel used in the device, limitations for timing or hours of use, and device operating requirements to limit emissions. Exemption availability shall be limited to the following conditions:

- (a) Sole Source: An exemption may be issued to the heads of households who sign a sworn statement declaring their reliance on a Solid Fuel Burning Device as the sole device providing heat for the main living space of their Residence. As a condition of the exemption, the head of the household shall allow a representative of Lakeview to verify that there is no other viable heat source other than a solid fuel burning device by granting access to the residence. The availability of this exemption shall expire annually on October 1.
- (b) Economic Need: An exemption for economic need to operate a Solid Fuel Burning Device may be granted to heads of households who otherwise qualify under the Sole Source exemption if the head of household can show that the total family income is less than 80% of the median income level for the Town of Lakeview as established by the Federal Department of Housing and Urban Development (<http://www.huduser.org/portal/datasets/il.html> or updated website).

(c) Oregon Certified Wood Stoves: An exemption may be issued to the heads of households for the operation of an Oregon Certified Wood Stove in a Residence during a Yellow Day Air Quality Advisory. However, the availability of this exemption is strictly contingent upon the Oregon Certified Wood Stove producing no visible smoke. The operation of an Oregon Certified Wood Stove shall be prohibited during a Red Day Air Quality Advisory, unless some other applicable exemption has been granted.

#### SECTION 4. INSTALLATION OF FIREPLACES AND WOODSTOVES:

For the installation of solid fuel burning device in new construction requires an alternative heat source within the Lakeview Urban Growth Boundary. In addition, any solid fuel burning device installed into an existing commercial facility or dwelling or in newly constructed facilities or dwellings, the device must be certified and meet certain emission requirements within the Lakeview Urban Growth Boundary.

(a) For newly constructed single family dwellings or multiple family dwellings, an additional alternative heat source, sufficient for home heating, is required should a solid fuel burning device be installed in the same dwelling. The home heating system must be fueled by propane, diesel, or other similar fuel, geothermal, or electric device with enough capacity to heat the dwelling from minus ten degrees Fahrenheit at ambient temperature to 68 degrees Fahrenheit; and

(b) A solid fuel burning device being installed in any single family dwelling, commercial facility or multiple family dwelling must meet certain emission requirements. Wood stoves must be certified and meet a 2.0 grams per hour emission limitation or current federal EPA NSPS standards for wood stoves whichever is less. Any newly constructed fireplaces must comply with fireplace ASTM standards. Any retrofitted fireplace must meet fireplace ASTM standards. Fireplaces must use the ASTM international standard test method E2558, and meet 5.1 grams per kilogram specifications.

#### SECTION 5. ENFORCEMENT AND PENALTIES:

Any violation of this Ordinance or non-compliance with any of the provisions hereof shall be subject to legal proceedings to abate or enjoin such violation for non-compliance.

In addition to or in lieu of abatement or injunctive proceedings, any violation of this Ordinance may be commenced by the issuance of a citation and shall be prosecuted in the Lake County Circuit Court as a Class B Violation pursuant to the provisions of ORS 153.008, ORS 153.012 and ORS 153.018 as now in effect or as may be amended from time to time.

The Town's Manager, or his designee, will have the primary responsibility of surveying the community for non-compliance and issuing warning letters. The Town's Chief of Police, or his designee, will have primary responsibility for the formal enforcement of the regulations as contained in the first paragraph of this Section and the remainder of this Ordinance.

#### SECTION 6. SEVERABILITY:

If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by 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 7. EMERGENCY AND EFFECTIVE DATE:

This ordinance and its purposes being necessary for the preservation of public peace, health and safety of Lake County and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect after its passage by the Board of Commissioners for Lake County.

Dated this 2 day of Sept, 2014



Dan Shoun, Chairman



Bradley J. Winters, Vice-Chair



Ken Kestner, Commissioner