

ORDINANCE No. 939
AN ORDINANCE OF THE CITY OF REDLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DECLARING THAT THE ATMOSPHERIC PURITY AND FREEDOM OF THE AIR HAS BEEN CONTAMINATED THROUGH THE USE OF ORCHARD HEATERS AND OTHER METHODS OF HEATING ORCHARDS; PROVIDING FOR THE ISSUANCE, SUSPENSION AND REVOCATION OF PERMITS; THE PROHIBITING OF THE USE OF CERTAIN TYPES OF HEATERS AND METHODS OF HEATING; METHODS OF APPEAL; PROVIDING FOR FEES AND PENALTIES.

The City Council of the City of Redlands does ordain as follows:

SECTION I. DECLARATION OF POLICY. The City Council of the City of Redlands, County of San Bernardino, State of California, hereby finds and declares that the people of the City of Redlands have a primary interest in atmospheric purity and freedom of the air from air contaminants, and that there is from time to time, pollution of soot, dense smoke and carbon from orchard heaters and that such condition is detrimental to the public peace, health, safety and welfare.

SECTION II. DEFINITIONS. As used in this ordinance the following terms have the meanings set forth in this section unless otherwise apparent from the context.

(a) "Person" means any individual, corporation, partnership, association or trust.

(b) "Orchard Heater" or "Heater" means any article, machine, equipment or contrivance, burning any kind of fuel, which is designed, used, maintained or capable of being used for frost protection. Contrivances commonly known as Wind Machines are not included.

(c) "Distilling Type Heater" means those commonly used heaters consisting of a square or round bowl oil reservoir with a cover upon which is centrally located a stack of the combustion chamber or lazy flame type and equipped with an air intake regulator. In such heaters gases are generated in the reservoir for burning in the stack above.

(d) "Non-complying Orchard Heater" means an orchard heater which is ineligible for a permit under section 4.

(e) "Return Stack Heater" means the heater referred to in University of California College of Agriculture, bulletin 643 as "return-stack gas heater." Figure 3B, page 6 of such bulletin, described on page 4 of such bulletin as a combustion-chamber type of heater with a return pipe for recirculating part of the stack gases.

(f) "Pipe Line System" means any of the currently developed generating types of heater where fuel is fed under pressure from central storage tanks through a pipe line distributing system to the individual heaters.

(g) "Open Fire" means any fire not contained or enclosed or produced by systems or heaters described and permitted under this ordinance.

(h) "Frost Protection" means the protection of citrus or other fruits, trees, growing crops or vegetation against damage from frost or cold weather.

SECTION III. PERMITS. After November 1, 1952, no person shall construct, place, maintain, alter, use or operate, any orchard heater in any place where it may be used or operated for frost protection, without first obtaining a permit to do so from the City Manager. Application for such permits shall be made to the City Manager on forms ob-

tained from him and shall contain all information called for by such forms. The City Manager may require the applicant to furnish such additional information as he may deem necessary before passing on any application. Permits shall not be transferable.

SECTION IV. HEATERS ELIGIBLE FOR PERMIT. Except as provided in Sections 5 and 9 no permit shall be granted for any orchard heater unless it is so designed, or controlled, or can be so regulated, that it will not discharge into the atmosphere unconsumed solid carbonaceous matter at a rate in excess of one (1) gram per minute.

SECTION V. CONDITIONAL PERMITS. The City Manager may grant conditional permits for non-complying orchard heaters when such conditional permits set forth conditions which when complied with will cause such heaters to meet the requirements of Section 4. No orchard heater shall be used or operated under a conditional permit granted under this section unless the conditions set forth in such permit are complied with.

SECTION VI. CLASSIFICATION OF ORCHARD HEATERS. For the purpose of this ordinance orchard heaters are divided into the following groups:

Class I. Any type of heater which is so designed or equipped that it will not discharge unconsumed solid carbonaceous matter at a rate in excess of one-half (1/2) gram per minute. Heaters of this type are mentioned in Section 7.

Class II. Any type of orchard heater other than a Class I heater which can be operated or regulated so that it will not discharge unconsumed solid carbonaceous matter at a rate in excess of one (1) gram per minute. Heaters included within this class are named in Section 8.

Class III. Any type of orchard heater which cannot be operated or regulated so as to discharge unconsumed solid carbonaceous matter at a rate of one (1) gram or less per minute but is susceptible to conversion into a Class II heater. Heaters included in this class are named in Section 9.

Class IV. Any type of orchard heater which discharges unconsumed solid carbonaceous matter at a rate in excess of one (1) gram per minute and is not susceptible to any modification or regulation that will cause it to discharge such matter at a rate of one (1) gram or less per minute and is not susceptible to conversion into a Class II heater. Heaters included in this class are named in Section 10.

SECTION VII. CLASS I HEATERS DESIGNATED, PERMITS. The City Council finds and determines that those types of heaters commonly known or designated as:

Pipe Line Systems
 Return Stack Heaters
 Coke Heaters

fall within Class I as defined in Section 6. Permits will be issued for Class I heaters upon application therefor and payment of the required fees. This Class also includes any heater which is shown by competent test to come within the definition of a Class I heater.

SECTION VIII. CLASS II HEATERS DESIGNATED, PERMITS. The City Council finds and determines that all orchard heaters commonly known by any of the following names or designations:

Name	Maximum Burning Rate of Fuel in Pounds per Hour
Hy-Lo 1929	8 lbs.
Hy-Lo 148 Original	8 lbs.
Hy-Lo 148 Special	8 lbs.
Hy-Lo Drum	8 lbs.

Lemora	8 lbs.
Jumbo Cone	7 lbs.
Kettle	7 lbs.
Exchange Model	7 lbs.
7 inch diameter stack	7 lbs.
Exchange Model	6 lbs.
16 inch diameter stack	6 lbs.
Lazy Flame 24 inch stack	6 lbs.
Hy-Lo 230-A	6 lbs.
Lazy Flame 18 inch stack	6 lbs.
National Junior Louver	6 lbs.

with 18 inch stack fall within Class II as defined in Section 8. This Class also includes any type of orchard heater (other than Class I heaters) not herein specifically named which is shown to meet the requirements of Section 4.

The operation of any Class II heater at a burning rate in excess of the maximum specified in the foregoing schedule for such heater is prohibited except for the first five (5) minutes after the heater is lighted. Said maximum burning rates are predicated upon the heaters being reasonably clean. Permits for Class II heaters shall be issued upon proper application and payment of the required fees and shall set forth the maximum burning rate permitted for each type of heater covered by such permit.

SECTION IX. CLASS III HEATERS DESIGNATED, TEMPORARY PERMITS, PROGRESSIVE ELIMINATION. The City Council finds and determines that all types of orchard heaters commonly known or designated as:

Name	Maximum Burning Rate of Fuel in Pounds per Hour
Hy-Lo Double Stack	6 lbs.
National Junior Louver with 15 or 16 inch stack	6 lbs.
Hy-Lo Double Stack	6 lbs.
National Double Stack	6 lbs.
Exchange Model	6 lbs.
5 1/2 diameter stack	6 lbs.
Baby Cone	5 lbs.
Physey Beacon	5 lbs.
Citrus Regular	5 lbs.
Citrus 15-inch Stack	5 lbs.

fall within Class III as defined in Section 6. No permits shall be granted for Class III heaters except under the provisions of this Section.

The operation of any Class III heater at a burning rate in excess of maximum specified in the foregoing schedule for such heater is prohibited except for the first five (5) minutes after the heater is lighted. Said maximum burning rates are predicated upon the heaters being reasonably clean. Each permit for Class III heaters shall set forth the maximum burning rate permitted for each type of heater covered by such permit.

The City Council finds and determines that there is and will be for a considerable length of time, a shortage of available equipment for replacing or modifying Class III orchard heaters and that it would work an undue hardship upon the owners of such heaters to entirely deprive them of the use of such heaters at this time. It is the intent of this ordinance, however, to cause the removal or replacement of Class III heaters at a rate which will result in their complete elimination by November 1, 1955. Permits will therefore be granted for Class III orchard heaters only in accordance with the following schedule:

(a) A permit will be granted until November 1, 1953, for 85% of any given number of an applicant's Class III heaters upon the condition that the remainder of such number shall be replaced with one or more types of Class I heaters. The conversion of a Class III type heater

(OVER)

into a Class I heater shall be the equivalent of replacing the entire heater.

(b) A permit will be granted until November 1, 1953, for 65% of any given number of an applicant's Class III heaters upon the condition that the remainder of such number are to be removed and kept removed from any place where they may be used for frost protection and no orchard heaters are substituted in their place or stead.

(c) All replacements or conversions of Class III type heaters into Class I type heaters since October 11, 1950, shall be credited in the percentage of heaters to be replaced by or converted into Class I heaters.

(d) A permit will be granted until November 1, 1953, for 50% of any given number of an applicant's Class III heaters upon the condition that the remainder of such number shall be replaced with Class II heaters. Conversion of a Class III heater into a Class II heater by replacing the stack assembly with one which is standard equipment on any type of heater listed in Section 8 shall be the equivalent of replacing the entire heater.

(e) For the period of one year beginning November 1, 1953, permits will be issued for only one-half of the number of an applicant's Class III heaters for which a permit was issued or could have been issued under this Section for the previous year. For the period of one year beginning November 2, 1954, permits will be issued for a number of an applicant's Class III heaters equal to one-half of the number for which a permit was issued or could have been issued under this Section for the previous year. No permit for Class III heaters will be issued or be effective for any period after November 1, 1955.

No permit shall be issued for Class III heaters located on one piece of property on account of the removal, replacement or conversion of heaters located on any non-adjointing property though the two properties are under the same or common ownership. For the purposes of this paragraph all property is deemed to extend to the center line of any adjoining street, road or highway. No permit shall be issued under this section for any Class III heater acquired by the applicant after effective date of this ordinance, and no permit shall be issued under this section on account of the removal, replacement or conversion of any Class III heater acquired by the applicant after effective date of this ordinance. No permit issued on account of the replacement or conversion of a Class III heater shall be valid unless or until the replaced heater or the old stack of a converted heater is removed and is kept removed from any place where it could be used for or in connection with frost protection.

SECTION X. CLASS IV HEATERS DESIGNATED. The City Council finds and determines that any and all types of orchard heaters commonly known by any of the following names or designations:

Garbage Pail
All types of Dunn Heaters
All types of Golden State Heaters
Bothwell
Smith-Evans
Citrus-with-Olsen Stack
Canco 3 or 5 gallon
All Hamilton and all Bread Pan types of Heaters
Wheeling
Chinn
fall within Class IV as defined in Sec-

tion 6. No permit shall be granted for any Class IV orchard heater. The maintenance, use or operation of any Class IV heater is prohibited.

SECTION XI. IDENTIFICATION OF HEATERS. When in this ordinance a distilling type heater is designated by name such name refers to the stack or stack assembly with which such heater is equipped. It being understood that many heaters are equipped with a stack of one make and with a cover or bowl of another make.

SECTION XII. DENIAL OF PERMIT, APPEAL. If an application for a permit under this ordinance is denied, the City Manager shall notify the applicant in writing of the reasons therefor. The applicant may file a new application when the reasons for the objections to the original application have been removed, or the applicant may, at any time, appeal from such denial to the City Council. Appeals to the City Council shall be passed upon within a reasonable period not exceeding 30 days after the appeal is filed. No applicant shall be deemed to be in violation of this ordinance with reference to any heater with regard to which an appeal has been pending and undecided for more than 10 days after the filing thereof. The provisions of this section relative to the right of appeal shall apply only to applications for the use of Class I, Class II and Class III heaters.

SECTION XIII. USE OF INCOMPLETE HEATERS PROHIBITED. All permits are for complete orchard heaters. The use or operation of any incomplete or partial assembly of any type of orchard heater for frost protection is hereby prohibited.

SECTION XIV. CLEANING, REPAIRS. All heaters for which a permit is issued shall be maintained in reasonable clean condition, and in good repair and working order. Failure to comply with this or any other section of this ordinance is a misdemeanor.

SECTION XV. The City Manager shall have authority to determine the proper classification of any orchard heater not specifically named herein.

SECTION XVI. OPEN FIRES, RUBBER PRODUCTS. The burning of any open fire, and the burning of any rubber, rubber tires or any substance containing rubber, for the purpose of or in connection with frost protection, is strictly prohibited.

SECTION XVII. TERM OF PERMITS. Permits issued after June 1 of any year are effective until November 1 of the following year and permits issued prior to June 1 of any year are effective to June 1 of that year, provided however this shall not apply to the year of 1952, wherein all permits issued shall be effective until November 1, 1953.

SECTION XVIII. PERMIT FEES. Every person applying for a permit or a conditional permit shall pay a fee in accordance with the following schedule:

(a) For original applications.

Acres Heated	Basic Fee
1. Less than ten acres.....	\$2.50
2. Ten acres to twenty acres.....	5.00
3. Over twenty acres.....	7.00

plus a fee of one cent per heater but not to exceed a maximum of \$25.00 for any one application. The basic fees above set forth shall be doubled for failure to apply for a permit prior to November first of any year, except that such double penalty shall be waived in cases where the applicant acquires property subsequent to November first and makes application for the first time covering such property.

(b) For supplemental application for altering or replacing heaters a fee of 2 cents per heater for the first one hundred (100) heaters and 1 cent per heater for all additional heaters. Maximum fee for supplemental application will be \$7.00.

(c) On approval or denial of the application for permit, the actual fee shall be determined and the applicant so notified. If the payment of the fee is not made to the City Manager within ten days of the notice of the amount due, the application shall be deemed to have been withdrawn.

Separate applications and permits shall be required for heaters located on non-adjointing properties though under a single ownership and the fees for each application shall be computed without regard to the acreage covered by any other application submitted by the same person.

SECTION XIX. It shall be the duty of the City Manager and of the law enforcement officers of the City otherwise charged with the enforcement of law, to enforce the ordinance.

SECTION XX. EFFECT OF PARTIAL INVALIDITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance or the application of such provision to other persons or circumstances, shall not be affected thereby.

SECTION XXI. PENALTIES. Any person, firm, association or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the City or County Jail for not more than six (6) months, or by both such fine and imprisonment. Each person, firm, association or corporation shall be deemed guilty of a separate offense for each day during any portion of which any violation of this ordinance is committed, continued or permitted.

SECTION XXII. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION XXIII. This Ordinance shall be in force and take effect as provided by law.

SECTION XXIV. The City Clerk shall certify to the adoption of this ordinance and cause it to be published once in the Redlands Daily Facts a newspaper of general circulation printed and published in this City.

HUGH M. FOLKINS,
Mayor of the City of
Redlands.

Attest:
H. R. WHALEY,
City Clerk.

(SEAL)
I hereby certify that the foregoing ordinance was adopted by the City Council of Redlands California, at a regular meeting thereof held on the 4th day of March, 1952, by the following vote:
Ayes: Councilmen Van Diest, Putnam, Clapp and Mayor Folkins.

Noes: None.
Absent: Councilman Thornquest.
Dated March 4th, 1952.
H. R. WHALEY,
City Clerk.

(SEAL)
Prepared and Approved as to Form,
PAUL B. WILSON,
City Attorney.