

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KRISTEN KAPELANSKI, PLANNER *Kristen*
THRU: BARBARA MCBETH, COMMUNITY DEVELOPMENT *Barb*
SUBJECT: TEXT AMENDMENT 18. 241 OUTDOOR FURNACES
(PLANNING COMMISSION MEETING DATE: 04/28/10)
DATE: APRIL 22, 2010

Attached you will find an ordinance amendment that the Community Development Department is proposing to address the use of outdoor furnaces in the City of Novi. An outdoor furnace is an enclosed "shed-like" structure separate from the primary structure of the property (i.e. home, business, etc.) that is typically fueled by wood, coal or corn that provides heat for the water and/or air of a residence or any other structure. Examples of outdoor furnaces are attached.

Currently, the Zoning Ordinance and City Code do not address the use of outdoor furnaces and the Community Development Department thought it appropriate to include provisions in the Zoning Ordinance to regulate such a use. Many communities throughout the country have recently approved ordinances relating to the installation and operation of outdoor furnaces. These regulations vary with some communities enacting a total prohibition of outdoor furnaces and others providing provisions related to setback, use and required acreage of a parcel.

The attached amendment permits outdoor furnaces as a permitted accessory use in the RA, Residential Acreage District on parcels three acres or larger. The previous draft permitted outdoor furnaces on parcels two acres or larger. The change in allowable acreage (among other minor changes) was recommended by the Fire Marshal. A memo detailing the Fire Marshal's comments is attached. Also attached is a map highlighting parcels zoned for Residential Acreage that are three acres or greater in size.

The amendment also requires 100 foot setbacks from each property line and provisions for the height of the chimney. Outdoor furnaces could be in operation from October 1st through April 30th of each year and permitted fuel would be firewood, untreated lumber and materials designed and manufactured for use in outdoor furnaces, such as wood pellets or corn. The literature indicates the main concerns are smoke, fumes, odors and air pollution if non-recommended fuel is used.

The Planning Commission set the public hearing on March 24, 2010 and had some questions regarding the City's current regulations for open burning and the use of incinerators. Neither open burning nor incinerators are addressed in the Zoning Ordinance or City Code but open burning is addressed in the Fire Protection Code. The Fire Protection Code does not allow open burning of any type of yard waste, etc. Small, contained fires are permitted in store-bought fire pits provided they are located more than fifty feet away from a structure.

The Planning Commission is asked to hold the Public Hearing on April 28th and forward a recommendation to the City Council, for reading and adoption. If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586.

FIRE MARSHAL REVIEW



April 21, 2010

TO: Barbara McBeth, Deputy Director Community Development
Kristen Kapelanski, Staff Planner

RE: Proposed Ordinance on Outdoor Fireplaces

CITY COUNCIL

Mayor
David B. Landry

Mayor Pro Tem
Bob Gatt

Terry K. Margolis

Andrew Mutch

Kathy Crawford

Dave Staudt

Justin Fischer

City Manager
Clay J. Pearson

Director of Public Safety
David Molloy

Director of Fire and EMS
Jeffrey Johnson

Dear Ms. McBeth & Ms. Kapelanski

I have reviewed the proposed ordinance for the City of Novi to allow the installation and use of outdoor fireplaces in certain zones areas and under certain conditions. I offer the following comments and suggestions regarding this issue:

1. One of my primary concerns with this ordinance is that it is allowing the installation of outdoor fireplaces that may allow emissions of potentially harmful smoke into the atmosphere that could be considered objectionable or even be detrimental to the health of our residents. With that, I do agree that an ordinance should be enacted that will restrict their use to only situations where the installations can be done safely and with reduced chances of complaints, such as on larger lots and for operation only in winter months when most residents will be indoors and have windows closed.
2. I suggest that the ordinance specifies that these furnaces can only be installed on lots containing single family residences and that the minimum lot size be 3 acres. Looking at the city map showing the 2 acre lots, there are several areas where a 2 acre lot adjoins a higher density subdivision.
3. Another concern is how the Michigan Building and Mechanical Codes would be enforced since there are very little existing codes or standards on these products.
4. Since these units require a lot of firewood to burn over a heating season, there is a concern about how much firewood would be kept on a residential lot to feed the furnace. I would suggest a limitation on storage of firewood.

Other Suggestions:

- Remove the title "Fire Marshal" from the definitions. There is no reference to the Fire Marshal in the ordinance text.
- In the definition of an "Outdoor Furnace", add: "A listed boiler or furnace...or any other type of permitted fuel
- Section 3(a): specify the "City of Novi".

If I think of anything else, I will let you know. Thank you for allowing me to review this and provide input on behalf of Fire Prevention and the Fire Department.

Sincerely,

Michael W. Evans
Fire Marshal

Novi Fire Department
42975 Grand River Ave.
Novi, Michigan 48375
248.349-2162
248.349-1724 fax

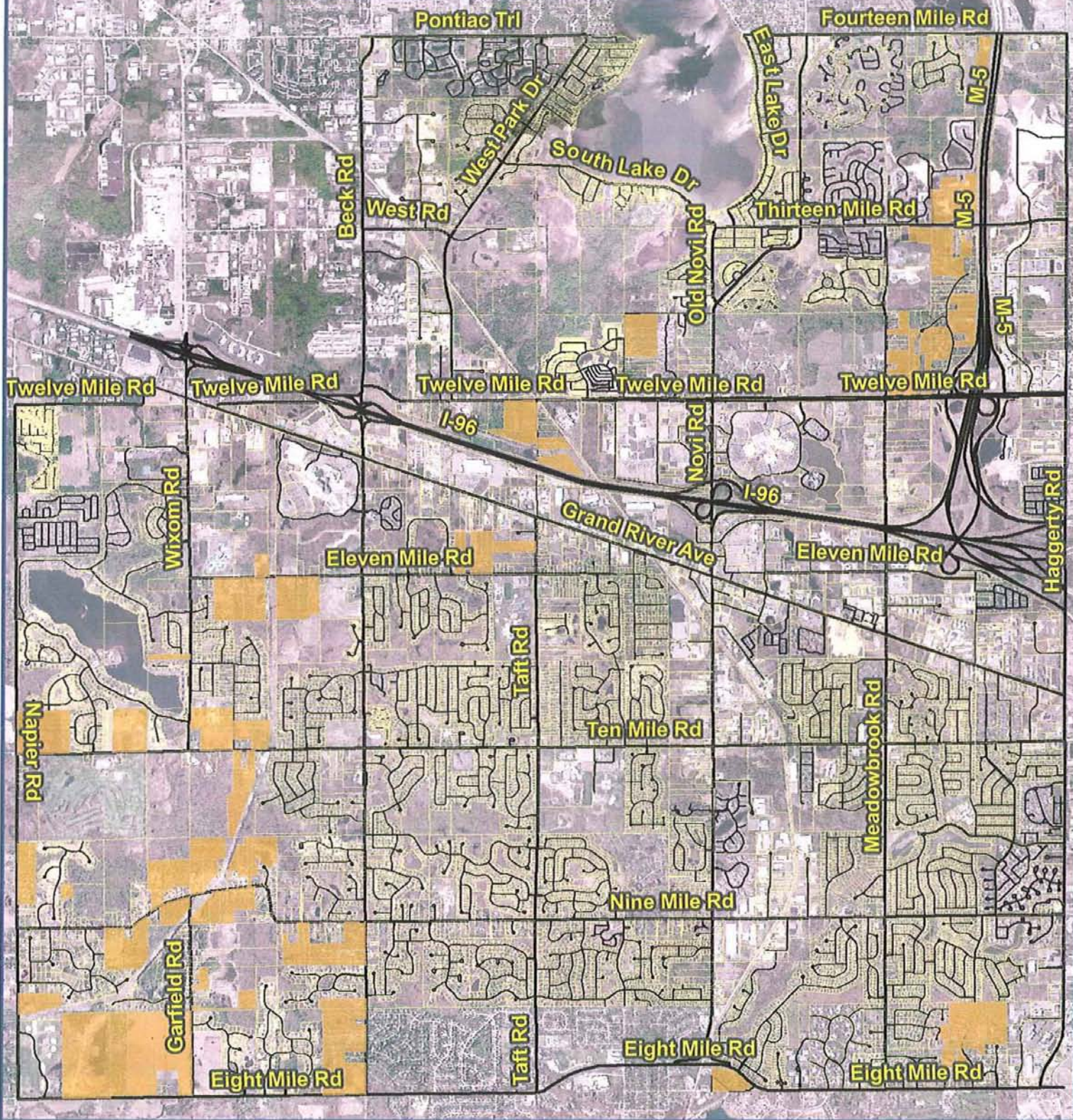
cityofnovi.org

**PLANNING COMMISSION ACTION SUMMARY
EXCERPT MARCH 24, 2010**

**PROPERTIES ZONED RA
3 ACRES AND GREATER**

Outdoor Furnace Text Amendment

Residential Acreage Parcels 3 Acres and Larger




Map Author: Kristen Kapelanski
 Date: 04/22/10
 Project: Outdoor Furnace Text Amendment
 Version #: 1.0

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 152 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

Map Legend

 Residential Acreage Parcels 3 Acres or Larger

* Does not include Condominiums, City Parks and Schools



City of Novi
 Department Division
 Department Name
 45175 W Ten Mile Rd
 Novi, MI 48375
 cityofnovi.org



1 inch = 4,162 feet

PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION

STATE OF MICHIGAN
COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 10- 18 – 241

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 3, RESIDENTIAL ACREAGE DISTRICT AND ARTICLE 25, GENERAL PROVISIONS. SECTION 2503, ACCESSORY USES; IN ORDER TO PROVIDE STANDARDS FOR THE CONSTRUCTION, USE, INSTALLATION AND OPERATION OF OUTDOOR FURNACES.

THE CITY OF NOVI ORDAINS:

Part I.

That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 3, Residential Acreage District, is hereby amended to add a new Section 303, Accessory Uses Permitted, and to renumber existing Section 303:

ARTICLE 3. RA RESIDENTIAL ACREAGE DISTRICT

Sec. 303. Accessory Uses Permitted.

1. Outdoor Furnaces shall be permitted as an Accessory Use in accordance with Section 2503.2.H of this Ordinance.

Sec. 3034. Required Conditions.

[Unchanged.]

Part II.

That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 25, General Provisions, Section 2503, Accessory Uses is hereby amended to read as follows:

ARTICLE 25. GENERAL PROVISIONS

Sec. 2503. Accessory Uses

1. [Unchanged]

2. Accessory Structures

A. – G. [unchanged.]

H. Outdoor Furnaces

(1) Intent. The purpose of this Ordinance is to protect the public health, safety and general welfare of the residents of the City from offensive odors, noxious fumes, smoke, ashes, soot or other toxic air pollutants that may emanate from Outdoor Furnaces in such quantities as to affect adjacent property by regulating the location and use of Outdoor Furnaces. It is acknowledged that Outdoor Furnaces and burning of the related fuel can create noxious and hazardous, smoke, soot, fumes, odors, air pollution, particles and other byproducts that can be detrimental to public health, and can deprive neighboring residents of the enjoyment of their property or premises. However, use of Outdoor Furnaces results in reduction on the reliance of fossil fuels and can result in significant cost savings for the owners of such devices.

(2) Definitions. For purposes of this article, the following items shall be defined as stated:

(a) City: The City of Novi, Michigan.

(b) Existing or In Existence: An Outdoor Furnace that is completely and correctly installed and operational pursuant to the manufacturer's specifications prior to the effective date of this Ordinance.

(c) Cord of Firewood: The amount of wood in a stack of forty-eight (48) inch logs (or cut logs equaling 48 inches) that is four (4) feet high and eight (8) feet wide.

(d) Firewood: Dry trunks and branches of trees and bushes but does not include leaves, needles and vines or brush smaller than three inches (3") in diameter.

(e) Grade Plane: The average level of the finished grade at the Outdoor Furnace of the structure within which the Outdoor Furnace is located, with four (4) or more corner points utilized for determining the average.

(f) Outdoor Furnace: A listed boiler or furnace, fueled by wood, coal, corn or any other type of permitted fuel, located outside the structure it is used to heat with the designated purpose of providing heat for water and/or air for a single-family residence and other structures accessory to a single-family residence.

(g) Owner: The owner of the lot or parcel upon which an Outdoor Furnace is located or the owner of an Outdoor Furnace or both.

(h) Untreated Lumber: Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

(3) General Provisions.

(a) Outdoor Furnaces are prohibited in the City of Novi, except as specifically authorized in this Ordinance.

(b) All Outdoor Furnaces shall be laboratory tested and listed to comply with appropriate safety standards, such as UL (Underwriters Laboratories) or ANSI (American National Standards Institute) and constructed, used and maintained so as to be in compliance with the provisions of the State Construction Code and all applicable statutes, rules, regulations, codes, ordinances and the manufacturer's specifications.

(c) All Outdoor Furnaces shall comply with all of the following provisions:

i. Permitted Fuel. Only Firewood, Untreated Lumber and materials that are designed and manufactured for use in Outdoor Furnaces (such as wood pellets and corn) are permitted to be burned in any Outdoor Furnace. Burning of any and all other materials in an Outdoor Furnace is prohibited. Firewood and other permitted fuel shall be stacked in a neat, orderly manner, and when outdoors at least six (6) inches from any building or structure and shall not be stored in the front yard of any parcel. No more than two cords of wood shall be stored on a parcel at any one time.

ii. Permitted Zones. Outdoor Furnaces shall only be permitted in the RA, Residential Acreage District on a lot or parcel of which is three (3) acres or more. No more than one Outdoor Furnace shall be permitted per parcel.

iii. Setbacks. Outdoor Furnaces shall be setback not less than 100 feet (100') from the nearest lot line and shall have a chimney (also referred to as a "stack") that extends at least fifteen feet (15') above the grade plane and at least two feet (2') higher than the height of the highest roof peak of any residence that is not served by the Outdoor Furnace which is located within five-hundred feet (500'). The Outdoor Furnace shall be located on the property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.

- iv. Months of Operation. The use of Outdoor Furnaces shall only be permitted from October 1st to April 30th of each year. The use of Outdoor Furnaces is prohibited between May 1st and September 30th of each year.
- v. Spark Arrestors. All Outdoor Furnaces shall be equipped with properly functioning spark arrestors.
- vi. Operation and Maintenance. Outdoor Furnaces shall be constructed, established, installed, operated and maintained in accordance with manufacturer specifications and the requirements of this Ordinance.

(4) Existing Outdoor Furnaces.

(a) Notwithstanding the required minimum lot or parcel area, location, chimney height and setbacks required by this Ordinance, an Outdoor Furnace in existence prior to the effective date of this Ordinance shall be permitted to remain, but only if it complies with the following requirements:

- i. The Existing Outdoor Furnace must meet all of the requirements of this Section 2503.H(4) and comply with Section 2503.H(3)(b), Section 2503.H(3)(c)i, Section 2503.H(3)(c)iv and Section 2503.H(3)(c)v.
- ii. The Owner applies for and receives all inspections, permits and approvals required pursuant to Section 2503.H(5) of this Ordinance within one (1) year of the effective date of this Ordinance.
- iii. An Existing Outdoor Furnace cannot be relocated, attached to or provide heat to new buildings, or be expanded in size or replaced, unless it complies with this Ordinance. However, nothing in this Ordinance shall prohibit the regular repair and maintenance of an Existing Outdoor Furnace so that it is operated in a safe manner and according to the manufacturer's specifications.

(b) Outdoor Furnaces that are not completely and correctly installed and operational pursuant to the manufacturer's specifications prior to the effective date of this Ordinance shall not be considered "Existing" or "In Existence" and shall be required to meet all of the requirements of this Ordinance as a new Outdoor Furnace.

(5) Application for Permit. No person shall install or cause, allow or maintain the use of any new or Existing Outdoor Furnace without first obtaining approval from the City and all other permits required for the installation and operation of an Outdoor Furnace.

(a) In addition to any other requirement, an application for approval shall include:

- i. A detailed and dimensioned survey of the lot or parcel upon which the Existing or new Outdoor Furnace is located or proposed to be located. The proposed location of the Existing or new Outdoor Furnace shall be clearly shown along with the location and height of any existing structures on the site and all structures within 500 feet of the proposed outdoor furnace.
- ii. Detailed specifications of the Outdoor Furnace published by the manufacturer.
- iii. A statement of the intended use of the Outdoor Furnace.
- iv. Consent by the Owner for the City or any other governmental official to enter the lot of parcel upon which the Existing Outdoor Furnace or new Outdoor Furnace is located or proposed to be located for the purpose of inspecting the Existing Outdoor Furnace or the location of the proposed new Outdoor Furnace.

(b) Failure to obtain all required Building Division inspections, permits and approvals for a new or Existing Outdoor Furnace shall be a violation of this Ordinance.

(6) Nuisances. If any Outdoor Furnace (permitted or otherwise) constitutes a nuisance as defined by the nuisance factors listed in Section 201 of the Zoning Ordinance, the Owner shall immediately cease using the Outdoor Furnace and shall abate the nuisance.

PART III.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART V.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART VI.

Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2010.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:

PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION

STATE OF MICHIGAN
COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 10- 18 – 241

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 3, RESIDENTIAL ACREAGE DISTRICT AND ARTICLE 25, GENERAL PROVISIONS. SECTION 2503, ACCESSORY USES; IN ORDER TO PROVIDE STANDARDS FOR THE CONSTRUCTION, USE, INSTALLATION AND OPERATION OF OUTDOOR FURNACES.

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1. [Unchanged]

2. Accessory Structures

A. – G. [unchanged.]

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(1) *Intent.* The purpose of this Ordinance is to protect the public health, safety and general welfare of the residents of the City from offensive odors, noxious fumes, smoke, ashes, soot or other toxic air pollutants that may emanate from Outdoor Furnaces in such quantities as to affect adjacent property by regulating the location and use of Outdoor Furnaces. It is acknowledged that Outdoor Furnaces and burning of the related fuel can create noxious and hazardous, smoke, soot, fumes, odors, air pollution, particles and other byproducts that can be detrimental to public health, and can deprive neighboring residents of the enjoyment of their property or premises. However, use of Outdoor Furnaces results in reduction on the reliance of fossil fuels and can result in significant cost savings for the owners of such devices.

(2) *Definitions.* For purposes of this article, the following items shall be defined as stated:

(a) City: The City of Novi, Michigan.

(b) Existing or In Existence: An Outdoor Furnace that is completely and correctly installed and operational pursuant to the manufacturer's specifications prior to the effective date of this Ordinance.

(c) Cord of Firewood: The amount of wood in a stack of forty-eight (48) inch logs (or cut logs equaling 48 inches) that is four (4) feet high and eight (8) feet wide.

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(c) All Outdoor Furnaces shall comply with all of the following provisions:

i. *Permitted Fuel.* Only Firewood, Untreated Lumber and materials that are designed and manufactured for use in Outdoor Furnaces (such as wood pellets and corn) are permitted to be burned in any Outdoor Furnace. Burning of any and all other materials in an Outdoor Furnace is prohibited. Firewood and other permitted fuel shall be stacked in a neat, orderly manner, and when outdoors at least six (6) inches from any building or structure and shall not be stored in the front yard of any parcel. No more than two cords of wood shall be stored on a parcel at any one time.

ii. *Permitted Zones.* Outdoor Furnaces shall only be permitted in the RA, Residential Acreage District on a lot or parcel of which is three (3) acres or more. No more than one Outdoor Furnace shall be permitted per parcel.

iii. *Setbacks.* Outdoor Furnaces shall be setback not less than 100 feet (100') from the nearest lot line and shall have a chimney (also referred to as a "stack") that extends at least fifteen feet (15') above the grade plane and at least two feet (2') higher than the height of the highest roof peak of any residence that is not served by the Outdoor Furnace which is located within five-hundred feet (500'). The Outdoor Furnace shall be located on the property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.

- iv. *Months of Operation.* The use of Outdoor Furnaces shall only be permitted from October 1st to April 30th of each year. The use of Outdoor Furnaces is prohibited between May 1st and September 30th of each year.
- v. *Spark Arrestors.* All Outdoor Furnaces shall be equipped with properly functioning spark arrestors.
- vi. *Operation and Maintenance.* Outdoor Furnaces shall be constructed, established, installed, operated and maintained in accordance with manufacturer specifications and the requirements of this Ordinance.

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- ii. The Owner applies for and receives all inspections, permits and approvals required pursuant to Section 2503.H(5) of this Ordinance within one (1) year of the effective date of this Ordinance.
- iii. An Existing Outdoor Furnace cannot be relocated, attached to or provide heat to new buildings, or be expanded in size or replaced, unless it complies with this Ordinance. However, nothing in this Ordinance shall prohibit the regular repair and maintenance of an Existing Outdoor Furnace so that it is operated in a safe manner and according to the manufacturer's specifications.

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(b) Failure to obtain all required Building Division inspections, permits and approvals for a new or Existing Outdoor Furnace shall be a violation of this Ordinance.

(6) *Nuisances.* If any Outdoor Furnace (permitted or otherwise) constitutes a nuisance as defined by the nuisance factors listed in Section 201 of the Zoning Ordinance, the Owner shall immediately cease using the Outdoor Furnace and shall abate the nuisance.

PART III.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART V.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART VI.

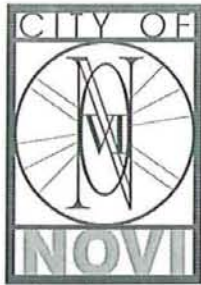
Effective Date: Publication. Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE ___ DAY OF _____, 2010.

DAVID LANDRY, MAYOR

MARYANNE CORNELIUS, CITY CLERK

Ayes:
Nays:
Abstentions:
Absent:



cityofnovi.org

PLANNING COMMISSION ACTION SUMMARY

Draft

CITY OF NOVI

Regular Meeting

Wednesday, March 24, 2010 | 7 PM

Council Chambers | Novi Civic Center | 45175 W. Ten Mile

(248) 347-0475

CALL TO ORDER

The meeting was called to order at 7:00 PM.

ROLL CALL

Present: Members David Baratta, Victor Cassis, Brian Larson, Michael Lynch, Michael Meyer (arrived at 7:08 PM), Mark Pehrson, Leland Prince

Absent: Members David Greco (excused), Andy Gutman (excused)

Also Present: Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Mark Spencer, Planner; David Beschke, Landscape Architect; Lindon Ivezaj, Engineer; Doug Necci, Façade Consultant; Martha Holzheuer, Environmental Consultant; Kristin Kolb, City Attorney

APPROVAL OF AGENDA

A motion to approve the March 24, 2010 Agenda. *Motion carried 6-0.*

MATTERS FOR CONSIDERATION

2. SET A PUBLIC HEARING FOR APRIL 28, 2010 REGARDING OUTDOOR FURNACE ORDINANCE

A motion to set a Public Hearing for April 28, 2010 for the Text Amendment related to the Outdoor Furnace Ordinance. *Motion carried 7-0.*

EXAMPLES OF OUTDOOR FURNACES

Examples of Outdoor Furnaces

