



# CITY of NOVI CITY COUNCIL

**Agenda Item B**  
**September 26, 2016**

**SUBJECT:** Approval and Adoption of Ordinance 16-99.17, in order to amend the City of Novi Code of Ordinances, at Chapter 15, Fire Prevention and Protection, Article 2, Fire Prevention Code, Section 15-17, Amendments, Subsection 307, Open Burning and Recreational Fire, in order to add a provision relating to prescribed burns. **SECOND READING**

**SUBMITTING DEPARTMENT:**

**CITY MANAGER APPROVAL:** 

**BACKGROUND INFORMATION:**

This proposed ordinance has been referred to the City Council by the Council's Ordinance Review Committee (ORC). Following inquiries from the public, Novi Fire Department staff and City administration was tasked with researching allowing so-called "prescribed burns" in the City of Novi. A prescribed burn involves burning ground cover or invasive or undesirable plant species and materials in compliance with a plan (or "prescription") to ensure safe conduct of the burn and appropriate review by the fire department.

The City has adopted the National Fire Prevention Code, which does not permit prescribed burns in most situations in the City, or at least does not specifically regulate them. Novi's Fire Department is typically not authorized to prescribe burns except in limited instances. Review of the surrounding communities revealed a number that have permitted prescribed burns with appropriate permits, plans, and oversight.

The attached ordinance amends Subsection 307 of the Fire Prevention Code to specifically refer to prescribed burns; to define a prescribed burn; to establish an application and review process (including review fees); to establish insurance and cost recovery requirements; and to provide notice to adjacent property owners.

The ORC has recommended the ordinance to the full City Council.

**RECOMMENDED ACTION:** Approval and Adoption of Ordinance 16-99.17, in order to amend the City of Novi Code of Ordinances, at Chapter 15, Fire Prevention and Protection, Article 2, Fire Prevention Code, Section 15-17, Amendments, Subsection 307, Open Burning and Recreational Fire, in order to add a provision relating to prescribed burns. **SECOND READING**

	1	2	Y	N
<b>Mayor Gatt</b>				
<b>Mayor Pro Tem Staudt</b>				
<b>Council Member Burke</b>				
<b>Council Member Casey</b>				

	1	2	Y	N
<b>Council Member Markham</b>				
<b>Council Member Mutch</b>				
<b>Council Member Wrobel</b>				

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 16-99.17

**AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 15, "FIRE PREVENTION AND PROTECTION," ARTICLE II, "FIRE PREVENTION CODE," SECTION 15-17, "AMENDMENTS," SUBSECTION 307, "OPEN BURNING AND RECREATIONAL FIRES," ORDER TO ADD A PROVISIONS RELATING TO PRESCRIBED BURNS.**

**THE CITY OF NOVI ORDAINS:**

**PART I.** That Chapter 15, "Fire Prevention and Protection," Article II, "Fire Prevention Code," Section 15-17, "Amendments," Subsection 307, "Open burning and recreational fires," of the City of Novi Code of Ordinances is hereby amended to:

**Section 15-17. Amendments**

\*\*\*

**SUBSECTION 307 OPEN BURNING, RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES**

**307.1 General.**

A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Sections 307.1.1 through 307.5.

307.1.1 Prohibited open burning.

Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous.

Exception: Prescribed burning solely for the purpose of reducing the impact of wildland fire when authorized by the fire code official.

**307.2 Permit required.**

A permit shall be obtained from the fire code official in accordance with Section 105.6 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, ~~or a bonfire,~~ or a fire set as a prescribed burn as provided in this subsection. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

Exception: Bonfires located within thirty feet (30') of a lake, not exceeding 3'x3'x3' in size and meeting all other provisions of this code shall be allowed without a permit.

#### 307.2.1 Authorization.

Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

### **307.3 Extinguishment authority.**

When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the fire code official is authorized to order the extinguishment of the open burning operation.

### **307.4 Location.**

The location for open burning shall not be less than 50 feet (15 240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15 240 mm) of any structure.

Exceptions:

1. Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
2. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

[3. Prescribed burns approved in accordance with this subsection.](#)

#### 307.4.1 Bonfires.

A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition.

#### 307.4.2 Recreational fires.

Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

#### 307.4.3 Portable outdoor fireplaces.

Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

### **307.5 Attendance.**

Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

307.5.1 Materials. Fuel for open burning shall consist only of seasoned dry firewood and be ignited with a small quantity of paper. The use of refuse, waste, trash, garbage, tires, stumps, cardboard, lumber, furniture, grass, leaves, brush, evergreens, roof covering, flammable liquids, fabric, cloth, or other material not approved by the code official as fuel is prohibited. Open burning shall not be used for waste disposal purposes.

### **307.6 Occupational needs.**

Open burning for the warmth of workers or heating for occupational needs shall be confined to an approved noncombustible container or apparatus to prevent the fire from spreading.

### **307.7 Prescribed burns**

307.1 "Prescribed burn" means the burning, in compliance with a plan (or "prescription") and to meet specific planned land management objectives related to ground cover or invasive or undesirable plant species or materials, of a continuous cover of fuels. The following shall apply to all prescribed burns:

#### 307.1.1 Application and plan/prescription required

No permit shall be issued unless an application on a form provided by the City has been submitted by the owner of the land upon which the burn will take place, or by the individual conducting the burn on behalf of the owner; if submitted by someone other than the owner, the owner shall also sign the application. The application shall require a plan or prescription that includes:

a. A site map detailing:

- (i) the targeted burn area;
- (ii) property lines;
- (iii) neighboring structures and utilities
- (iv) other relevant physical features of the site.

b. A description of the purposes of the burn, including:

- (i) the benefit(s) to the property of the proposed activity; and
- (ii) the particular ground cover and/or plant species or materials the activity will address.

- c. A statement of the weather conditions under which the proposed burn will take place.
- d. Proof of adequate water supply for extinguishing the fire set.
- e. A description of proposed method of conducting the burn.
- f. A description of proposed method of extinguishment detailing both primary and secondary measures.
- g. Proof, satisfactory to the code official in his or her sole discretion, of the qualifications of the individual conducting the burn to safely engage in the permitted activity.

#### 307.1.2 Review fee

A fee of \$ 50.00 for residential and \$150.00 for commercial shall be paid at the time of the application.

#### 307.1.3 Insurance and cost recovery agreement

The code official shall require proof of adequate insurance covering the proposed activity. Insurance coverage may be provided by ~~the property owner or the individual conducting the burn~~ (e.g., through a comprehensive general liability policy), or by the property owner (e.g., through a homeowner's insurance policy). In addition, the applicant shall agree to pay the costs of any required response by the City. Any prescribed burn determined by the fire code official to require fire department equipment/vehicle and personnel shall be charged according to the Fire Department Fee Schedule.

#### 307.1.4 Term of permit

The permit shall be for a specific period of time no longer than 30 days.

#### 307.1.5 Notification to the fire department

The applicant shall be responsible to notify the fire department of the time of the burn at least 48 hours before the time of its expected commencement. The applicant shall also notify the Department approximately 30 minutes before ignition. If weather conditions prevent ignition at the expected time, the applicant may commence the burn within the next 48-hour period, with notice to the Department approximately 30 minutes before ignition. The applicant shall also notify the department of the completion of the burn and the complete extinguishment of the fire within one hour of extinguishment.

#### 307.1.6 Notification of adjacent property owners

The applicant shall give reasonable notice to the occupants of the immediately adjacent properties of the intended activity at least 24 hours before commencement. Notice may be verbal or in writing. If weather

conditions prevent ignition at the expected time, the applicant shall be permitted to commence the burn without additional notice within the next 24-hour period.

307.1.7 Extinguishment authority

When a prescribed burn creates or adds to a hazardous situation, or a required permit for a prescribed burn has not been obtained, the fire code official is authorized to order the extinguishment of the prescribed burn operation.

307.1.8 Attendance

The person in charge of conducting the burn shall be present all all times during the burn, from ignition to extinguishment.

\*\*\*

**PART II. 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 III. 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 IV. Repealer.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**PART V. Effective Date.** The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

**PART VI. Adoption.** This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the \_\_\_ day of \_\_\_\_\_, 2016, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_.

\_\_\_\_\_  
Robert J. Gatt, Mayor

\_\_\_\_\_  
Cortney Hanson, City Clerk

**Certificate of Adoption**

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2016.

---

Cortney Hanson, City Clerk