

MEMORANDUM



TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KRISTEN KAPELANSKI, PLANNER *Kristen*
THRU: BARBARA MCBETH, COMMUNITY DEVELOPMENT
SUBJECT: TEXT AMENDMENT 18. 241 OUTDOOR FURNACES
(PLANNING COMMISSION MEETING DATE: 03/24/10)
DATE: MARCH 15, 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.

Recently, the City has received inquiries from several residents interested in installing an outdoor furnace on their property. 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 principal permitted use in the RA, Residential Acreage District on parcels two acres or larger. 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. Staff and consultants are still commenting on the attached language and the finalized language will be provided to the Planning Commission prior to the public hearing.

The Planning Commission is asked to set a Public Hearing for April 28th on the ordinance amendment. At that time the Commission will hold the public hearing 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.

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. SECTION 301, PRINCIPAL USES PERMITTED AND ARTICLE 25, GENERAL PROVISIONS. SECTION 2503, ACCESSORY USES; IN ORDER TO PROVIDE STANDARDS FOR THE USE AND INSTALLATION 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, Section 301, Principal Uses Permitted and Article 25, General Provisions, Section 2503, Accessory Uses are hereby amended to read as follows:

Article 3, Residential Acreage District

Sec. 301. Principal Uses Permitted

1. – 8. [Unchanged.]

9. Outdoor Furnaces on parcels of at least 2 acres in size and subject to the regulations in Section 2503.2.H of this Ordinance.

Article 25, General Provisions

Sec. 2503. Accessory Uses

1. [Unchanged]

2. Accessory Structures

A. – G. [unchanged.]

H. Outdoor Furnaces

(1) Intent. It is generally recognized that Outdoor Furnaces and burning the types of fuel used 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. 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 emanating from Outdoor Furnaces in such quantities as to render occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities and to regulate the location and use of Outdoor Furnaces.

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

(d) Fire Marshal: The Fire Marshal of the City or other person designated by the Fire Marshal to act on his behalf.

(e) Grade Plan: 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 boiler or furnace, fueled by wood, coal, corn or any other type of fuel, located outside the structure it is used to heat with the designated purpose of providing heat for water and/or air for a residence or any other structure.

(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, 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.

ii. Permitted Zones. Outdoor Furnaces shall only be permitted in the RA, Residential Acreage District on a lot or parcel of which is 2 acres or more.

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 dwelling (owned by one other than the Owner of the Outdoor Furnace and in existence on the effective date of this Ordinance) located within five-hundred feet (500'). If the chimney height required by this Ordinance exceeds the manufacturer's specifications, then the Outdoor Furnace shall not be permitted. 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 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.

(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. If the Owner of an Existing Outdoor Furnace does not apply for and receive all inspections, permits or approvals within one (1) year of the effective date of this Ordinance pursuant to Section 2503.H(5) of this Ordinance, the Existing Outdoor Furnace shall be removed.
- iii. Existing Outdoor Furnaces cannot be relocated, attached to or used to provide heat to new buildings, expanded in size or replaced, unless it complies with every provision of 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 meet all of the requirements of this Ordinance.

(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 site plan 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 Site Plan and Land Use 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 any existing structures on the site.
- 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 or 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. Abating the nuisance shall include, but not be limited to removing the Outdoor Furnace.

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 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 V.

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:

Examples of Outdoor Furnaces

