



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item C
June 7, 2010

SUBJECT: Approval of Zoning Ordinance Text Amendment 18.241, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 3, Residential Acreage District and at Article 25, General Provisions, Section 2503, Accessory Uses in order to provide standards for the construction, use, installation and operation of outdoor furnaces.
SECOND READING

SUBMITTING DEPARTMENT: Community Development Department - Planning ^{Baugh}

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Attached is an ordinance amendment proposed by the Community Development Department 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 to provide home heating or water heating. Examples of outdoor furnaces are attached.

Benefits for the property owner in the use of outdoor furnaces are considered to be a cost savings in fuel bills and reduction in reliance of fossil fuels. Concerns for the health, safety and general welfare of the public include protection from offensive odors, noxious fumes, smoke, ash, soot or other toxic air pollutants that may emanate from an outdoor furnace (especially when non-recommended fuels are burned) in such quantities that would affect adjacent properties.

Currently, Novi's Zoning Ordinance and City Code do not address the use of outdoor furnaces. The attached Zoning Ordinance provisions are proposed to allow the use of outdoor furnaces in limited locations and with restrictions on the type of fuel used. As the use of outdoor furnaces has increased throughout the country, many communities have 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. 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, thereby limiting the use of the furnaces to the colder months, and the months when neighbors would likely have windows closed. 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 with the use of outdoor furnaces are smoke, fumes, odors and air pollution that emanates from the furnace 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, garbage, 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 recommended approval of the proposed text amendment at their April 28th, 2010 meeting with some minor changes. A provision requiring an outdoor furnace to be commercially manufactured (as opposed to built by a homeowner) was added to Section 2503.2.H(3)(b) at the suggestion of the Planning Commission. The Planning Commission also had some concerns related to the inspection and installation of an outdoor furnace. Section 2503.2.H(5)(b) requires all applicants to obtain the appropriate permits and approvals from the Building Division prior to installation.

The City Council approved the first reading of the proposed amendment on May 17, 2010. At that meeting, the City Council had several questions regarding the enforcement of the proposed ordinance. The provisions of the outdoor furnace ordinance would be enforced by the Ordinance Officers of the Community Development Department, just as most City ordinances are enforced. If a resident has a complaint about an outdoor furnace or anything related to the fuel used in the furnace, the resident could call the Community Development Department speak with an Ordinance Officer. The Officer would determine whether or not a violation has occurred, notify the property owner and work with the property owner to remedy any issues concerning the outdoor furnace.

RECOMMENDED ACTION: Approval of Zoning Ordinance Text Amendment 18.241, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 3, Residential Acreage District and at Article 25, General Provisions, Section 2503, Accessory Uses in order to provide standards for the construction, use, installation and operation of outdoor furnaces. **SECOND READING**

| | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Mayor Landry | | | | |
| Mayor Pro-Tem Gatt | | | | |
| Council Member Crawford | | | | |
| Council Member Fischer | | | | |

| | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Council Member Margolis | | | | |
| Council Member Mutch | | | | |
| Council Member Staudt | | | | |

**CITY COUNCIL MINUTES
EXCERPT MAY 17, 2010**

REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI
MONDAY, MAY 17, 2010 AT 7:00 P.M.
COUNCIL CHAMBERS - NOVI CIVIC CENTER - 45175 W. TEN MILE ROAD

Mayor Landry called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL: Mayor Landry, Mayor Pro Tem Gatt, Council Members Crawford, Fischer, Margolis, Mutch-absent, Staudt

ALSO PRESENT: Clay Pearson, City Manager
Tom Schultz, City Attorney
Barbara McBeth, Director of Community Development

APPROVAL OF AGENDA

**CM-10-05-071 Moved by Gatt, seconded by Margolis; CARRIED UNANIMOUSLY:
To approve the agenda as presented.**

Roll call vote on CM-10-05-071 **Yeas: Gatt, Crawford, Fischer, Margolis, Staudt,
Landry**
 Nays: None
 Absent: Mutch

Member Mutch arrived at 7:01 P.M.

MATTERS FOR COUNCIL ACTION – Part I

- 2. Consideration of Zoning Ordinance Text Amendment 18.241, to amend Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance, at Article 3, Residential Acreage District and at Article 25, General Provisions, Section 2503, Accessory Uses in order to provide standards for the construction, use, installation and operation of outdoor furnaces. First Reading**

Member Mutch said in the memo provided to Council, it was indicated that there had been some inquiries from residents about installing these kinds of furnaces on their properties. He asked how many requests there were and whether there were any of these already existing in the City. Ms. McBeth said the ordinance was brought about because of a few requests that they had but she was not aware of any that had been installed in the City. She said they became aware of these furnaces, with some level of concern, from what some of the neighboring communities were experiencing. So, they thought it would be best to have an ordinance in place to address them as they came in. Member Mutch asked Mr. Schultz what his position was on whether these would be permitted or allowed within the zoning districts. Mr. Schultz said they had not been asked about that and he had not looked into it yet. However, he thought there must have been a permit process that they would have to go through but he didn't think Novi had seen any permit applications. He thought that at the very least if the use was not discussed in order to connect that to the home, he would expect there would be a code type review but in terms of use, he suspected that if it was silent, it would be potentially permitted. Member Mutch said the only comment he had on the ordinance and the way it had been written, assuming the Council would want to allow this kind of use in the City, it was probably less than 20 properties that he would consider residential properties. He said there were other properties but they looked like development size properties that would

become subdivisions or some other kind of development when the economy turned around. He said it became a question of whether they were writing an ordinance to address an actual need, assuming Council would want it and it would be implemented, because based on how it was currently written, he would see very few locations in the City where it could actually be applied. Mr. Schultz said, to follow up the first question, they could argue that by not being addressed it was a permitted use and the main affect of the ordinance would be to prohibit it anywhere but on those roughly 20 parcels. He said if nothing else, it would clarify what was required in the ordinance and the policy would then be RA only and no where else. He thought at the very least that would be done. Member Mutch said the way he saw the question was it wasn't going to be specific standards in terms of size but whether Council wanted this or not. He thought if they didn't want it, they shouldn't write an ordinance that essentially outlawed it without stating so. He said they should just say they didn't want this use in the City and go from there.

Member Margolis said there was information that seemed to make a pretty strong case that there were only certain kinds of materials that should be burned in them and if non-permitted materials were burned, that was when there were huge issues. She said it would cause pollutants and smoke, which would be an issue. She said they were saying in the ordinance that those kinds of other materials could not be used but how would they regulate and enforce something like that. Mr. Schultz said if they were going to be permitted anywhere, they would need regulations that went along with the use. He said from a police power standpoint the limitation on what could be burned was pretty typical. He said in the fire code, outdoor fires were permitted on some occasions and in some locations but it did talk about what could be burned. Mr. Schultz said it was a code enforcement question and would probably be enforced on a complaint basis but the standard seemed fairly clear on what could and could not be done. Member Margolis said she would be interested in something from the Administration in terms of the logistics in dealing with that before the second reading.

Member Crawford said when reading through the material she thought it was a creative way to save energy and, environmentally, wasn't this what everyone was trying to do. She said if this was something they could have an ordinance on, especially when our neighbors were already experiencing these coming in, typically what happened if Council was not prepared for these kinds of requests, then they ended up doing something in a hurry that really wasn't exactly what they intended. Member Crawford preferred they look into it now and write an ordinance that they could all agree on.

**CM-10-05-076 Moved by Crawford, seconded by Gatt; CARRIED UNANIMOUSLY:
To approve Zoning Ordinance Text Amendment 18.241, to amend
Ordinance No. 97-18 as amended, the City of Novi Zoning Ordinance,
at Article 3, Residential Acreage District and at Article 25, General
Provisions, Section 2503, Accessory Uses in order to provide
standards for the construction, use, installation and operation of
outdoor furnaces. First Reading**

Roll call vote on CM-10-05-076

**Yeas: Staudt, Landry, Gatt, Crawford, Fischer,
Margolis, Mutch
Nays: None**

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 commercially manufactured, 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.

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. 304. 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 commercially manufactured, 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:
Nayes:
Abstentions:
Absent:

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 MINUTES
EXCERPT APRIL 28, 2010**



PLANNING COMMISSION ACTION SUMMARY

CITY OF NOVI

Regular Meeting

Wednesday, April 28, 2010 | 7 PM

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

(248) 347-0475

cityofnovi.org

CALL TO ORDER

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

ROLL CALL

Present: Member Greco, Member Gutman, Member Larson, Member Lynch, Chair Pehrson, Member Prince

Absent: Member Baratta (excused), Member Cassis (excused), Member Meyer (excused)

Also Present: Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Mark Spencer, Planner; Kristin Kolb, City Attorney

APPROVAL OF AGENDA

A motion to approve the April 28, 2010 Agenda. *Motion carried 6-0.*

PUBLIC HEARINGS

1. ZONING ORDINANCE TEXT AMENDMENT 18.241

Public Hearing for Planning Commission's recommendation to City Council for an ordinance to amend Ordinance No. 97-18, as amended, the City of Novi Zoning Ordinance at Article 3, Residential Acreage District and Article 25, General Provisions, Section 2503, Accessory Uses; In order to provide standards for the use and installation and operation of outdoor furnaces.

In the matter of Zoning Ordinance Text Amendment 18.241, a motion to recommend approval to the City Council of the ordinance to provide standards for the use, installation and operation of outdoor furnaces, incorporating the comments from the Planning Commission. *Motion carried 6-0.*

**PLANNING COMMISSION MINUTES
EXCERPT MARCH 24, 2010**



cityofnovi.org

PLANNING COMMISSION MINUTES

Approved
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 Baratta, Cassis, Larson, Lynch, Meyer (arrived 7:08 PM.), Pehrson, Prince

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

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

PLEDGE OF ALLEGIANCE

Member Cassis led the meeting attendees in the recitation of the Pledge of Allegiance.

APPROVAL OF AGENDA

Moved by Member Lynch, seconded by Member Cassis:

VOICE VOTE ON THE AGENDA APPROVAL MOTION MADE BY MEMBER LYNCH AND SECONDED BY MEMBER CASSIS:

Motion to approve the March 24, 2010 Planning Commission Agenda. *Motion carried 7-0.*

MATTERS FOR CONSIDERATION

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

Planner Kapelanski stated staff is suggesting some modifications to the Zoning Ordinance to address the operation and installation of outdoor furnaces. The amendment is in response to some recent questions from residents interested in installing an outdoor furnace and wanting to know the City's regulations and approval process. The proposed ordinance would permit outdoor furnaces in the RA District only on parcels two acres or greater. It includes provisions regarding the types of materials that can be burned, compliance with the manufacturer's specifications and chimney height among other things.

The Planning Commission has been asked to set a Public Hearing for the April 28, 2010 Planning Commission meeting. The staff is still in the process of finalizing the language and circulating it around to different staff members and the City Attorney's office for comment. There may be some modifications when this appears for a public hearing on April 28, 2010 should the Commission choose to set that this evening.

Chair Pehrson asked if the items that would be permitted for fuel in an outdoor furnace are in alignment with the current ordinance for burning permit relative to materials for open burnings in the City and issued by the Fire Department.

Planner Kapelanski was not sure what the open burning ordinance allows. The materials permitted as fuel in the outdoor furnace ordinance are untreated wood and corn pellets and other materials that do not create noxious fumes.

Chair Pehrson asked Planner Kapelanski to see how this would tie in with the open burning ordinance.

Deputy Director McBeth added that the Fire Marshal and the Fire Department are reviewing the draft ordinance.

Member Baratta asked if there was an ordinance for incinerators in Novi or if incinerators are prohibited.

Planner Kapelanski stated she did not think the City had an ordinance specifically on incinerators and asked if Member Baratta was referring to an industrial-size incinerator.

Member Baratta replied he was referring to an in-home incinerator.

Planner Kapelanski confirmed she did not think the City had an ordinance on that use but staff could look into adding into the zoning ordinance.

Member Baratta thought that would be similar to what is being considered tonight, either indoor or outdoor.

Motion made by Member Prince, seconded by Member Lynch:

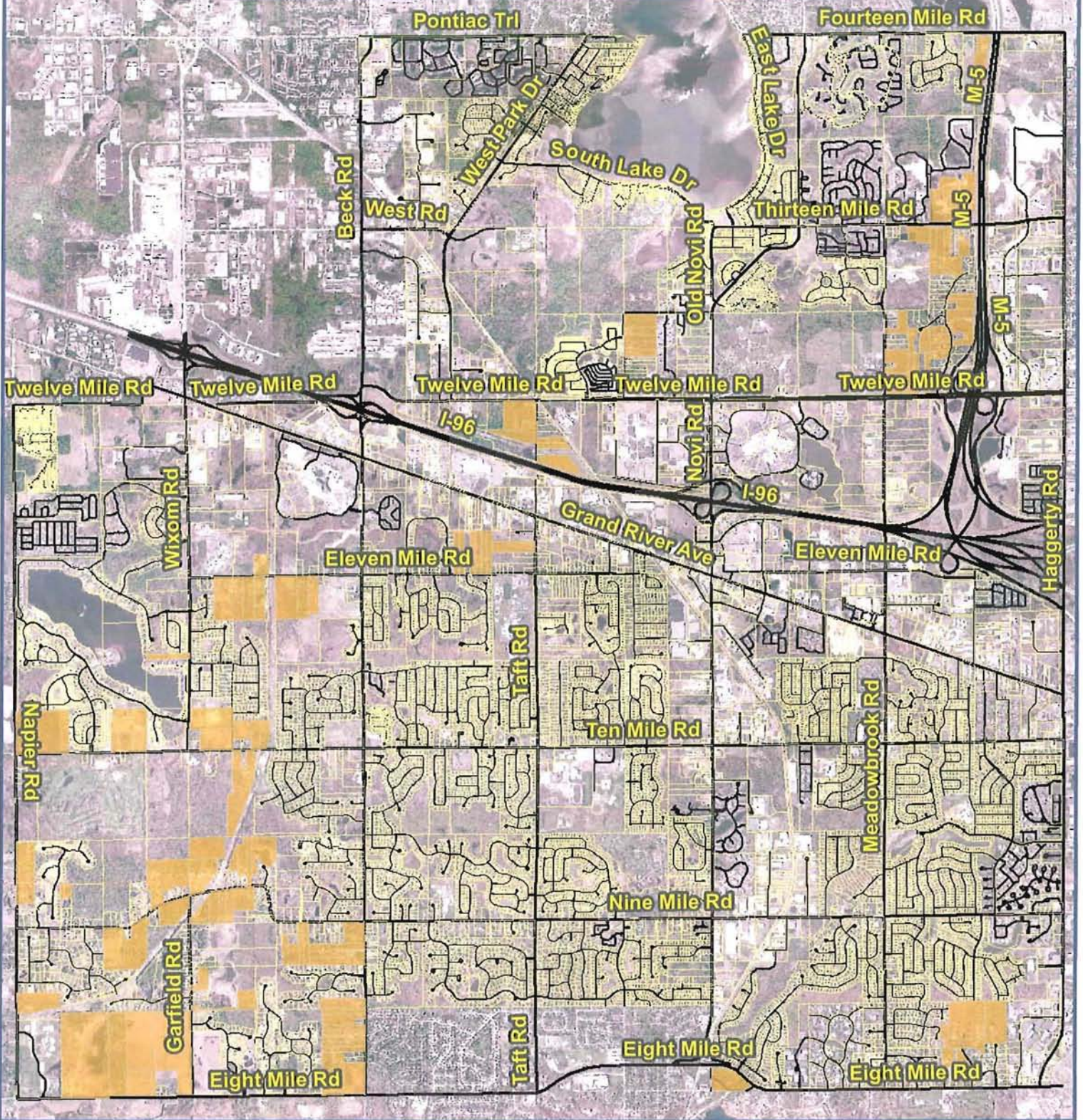
ROLL CALL VOTE ON MOTION TO SET A PUBLIC HEARING FOR TEXT AMENDMENT 18.241 MADE BY MEMBER PRINCE AND SECONDED BY MEMBER LYNCH.

Motion to set the Public Hearing for Text Amendment 18.241 for the Outdoor Furnace Ordinance for April 28, 2010. *Motion carried 7-0.*

**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 Legend

 Residential Acreage Parcels 3 Acres or Larger



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



1 inch = 4,162 feet

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 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

* Does not include Condominiums, City Parks and Schools

EXAMPLES OF OUTDOOR FURNACES

Examples of Outdoor Furnaces

