

ORDINANCE NO. 3, 3rd SERIES

ORDINANCE AMENDING TITLE IX
NUISANCES, HEALTH, PUBLIC PROTECTION

THE CITY COUNCIL OF THE CITY OF CHISHOLM DO ORDAIN AS FOLLOWS:

Section 1. City Code, Title IX Section 94.35, Subd. 1, entitled "Reserved/Empty" is hereby amended by changing as follows:

OUTDOOR WOOD BURNING FURNACES

A) *Intent and purpose.* The Chisholm City Council hereby finds that:

- (1) It is recognized and found that wood smoke is hazardous to an individual's health and may affect the health of the general public when they are involuntarily exposed to the presence of wood smoke.
- (2) Reliable scientific studies, including studies conducted by the Environmental Protection Agency (EPA), have shown that breathing wood smoke is a significant health hazard particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory functions, including asthmatics and those with obstructive airway disease.
- (3) It is recognized that "Outdoor wood burning furnaces" are designed and intended to be a primary heat source and therefore burn, and emit smoke, on a continual basis. A distinction is drawn between "Outdoor wood burning furnaces" and indoor wood stoves and fireplaces that, by nature, provide supplemental heat and are generally used on a less-frequent basis.
- (4) This section is adopted for the purpose of protecting the public health,

safety, comfort, and the general welfare of the people of the City of Chisholm; educating citizens affected by this section; and assisting property owners and managers in maintaining compliance.

- B) *Definition.* For the purpose of this section the following definition shall apply unless the context clearly indicates or requires a different meaning.

Outdoor Wood Burning Furnaces: A furnace, of similar device, designed and intended, and or used, through the burning of wood or other fuel sources, for the purpose of heating the principal structure or another accessory structure on the premises. These types of furnaces are characterized by a short stack height. They are located outside of the principal structure and are contained in free-standing structures. This definition includes outside wood burning water stoves. This definition does not include furnaces that burn wood pellets or corn that is augured to the fire box.

- C) *Regulation of outdoor wood burning furnaces.*

- (1) *Fuel.* The only fuel permitted to be burned is untreated fuel. Wood may not be treated, processed, stained, finished or painted - specifically prohibited woods include plywood, particle board and similar products. Other fuels, such as corn, shall not contain any additives, treatments or chemicals. No petroleum products or processed materials of any kind may be burned.
- (2) *EPA approved.* Any outdoor wood burning furnace shall be an EPA

certified stove.

- (3) *Permitted zones.* Outdoor wood burning furnaces shall only be permitted in R-1 and R-2 zones
- (4) *Property line setbacks.* An outdoor wood burning furnace must be setback a minimum of fifty feet from all property lines.
- (5) *Structure Setback.* An outdoor wood burning furnace must be setback a minimum of ten feet from any principal or accessory structure.
- (6) *Chimney stack height.* An outdoor wood burning furnace shall have chimney height that extends at least 15 feet above ground level unless the furnace is within 100 feet of a dwelling unit not on the same property of the wood burning furnace. If the furnace is within 100 feet of a dwelling unit of adjacent properties the chimney terminus is to extend above ground level to equal the height of the roofs of all such residences.
- (7) *Dates of use.* An outdoor wood burning furnace may not be used from April 15 to September 15 of each year.

D) *Nonconforming use.*

- (1) *Continuation of nonconforming uses.* The lawful use of any existing "outdoor wood burning furnace" existing at the time of the effective date of this section may be continued, although such use may not conform to the provisions of this section.

(2) *Extension or enlargement.* No pre-existing, non-conforming "outdoor wood burning furnace" shall hereafter be extended, enlarged, or expanded.

(3) *Abandonment and discontinuance.* Any pre-existing, non-conforming "outdoor wood burning furnace" which is abandoned or not used for a period of 12 consecutive months shall not be permitted to be re-established as a non-conforming use, cannot be used, and must be immediately removed by the property owner from the subject premises.

If the property owner fails to remove the "outdoor wood burning furnace" by the end of said 12 months, the city of Chisholm Zoning Administrator shall give written notice by certified mail, personal service, or posting to the property upon which the "outdoor wood burning furnace" is located. Such notice shall provide that such person shall remove the same within 15 days of the notice.

(4) *Termination.* At such time as the useful life of a non pre-existing, non-conforming "outdoor wood burning furnace" has elapsed or would need to be repaired to function properly, the unit cannot be replaced and must be abandoned, not used, and removed from the property immediately.

E) *Enforcement.* Any person committing violation of the provisions of this section shall be guilty of a misdemeanor.

Section 2. The effective date of this administration ordinance change shall be the date following the last date of publication in the City of Chisholm's official newspaper.

Moved by Councilperson K. Scaia and seconded by Councilperson Campbell that the foregoing ordinance be adopted.

Voting Yes: Councilpersons Campbell, Cook, Kevin Scaia, Rahja and Mayor Jugovich

Voting No: Councilpersons None
Absent: Councilperson Todd Scaia

Ordinance 2nd Reading this 25th day of March 2015.

CITY OF CHISHOLM
By Michael Scaia
Mayor

ATTEST:
Mark Campy
City Clerk/Administrator

First Reading: March 11, 2015
Second Reading: March 25, 2015
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