

ORDINANCE NO. NS-1100.90

AN ORDINANCE OF THE COUNTY OF SANTA CLARA
AMENDING TITLE C OF THE SANTA CLARA COUNTY
ORDINANCE CODE TO ADD DIVISION 18 TO SET FORTH
REQUIREMENTS REGARDING WOOD BURNING APPLIANCES
AND PROHIBITED FUELS

Summary

This ordinance enacts a new Division C18 to regulate the types of wood burning appliances that may be installed in new construction or added to existing structures. The ordinance also prohibits the burning of certain fuels in wood burning appliances.

WHEREAS, the State Air Resources Board (ARB) adopted a particulate matter (PM10) Ambient Air Quality Standard (AAQS) in December, 1982, and levels for the PM10 AAQS were selected pursuant to California Code of Regulations Title 17 Section 70200 to protect the health of people who are sensitive to exposure to fine particles; and

WHEREAS, the record contains research indicating that wood smoke is a significant contributor to PM10 levels that pose significant health risks; and

WHEREAS, the County of Santa Clara desires to lessen the risk to life and property from air pollution from wood burning appliances; and

WHEREAS, the County of Santa Clara finds a need exists to adopt regulations which apply to wood burning combustion emissions; and

WHEREAS, the County of Santa Clara finds that the proposed regulation will significantly reduce the increase in particulate emissions from future installation and construction activities; and

WHEREAS, this Ordinance is categorically exempt from environmental review, per the provisions of 14 California Code of Regulations Section 15061 (b)(3) California Environmental Quality Act Guidelines.

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THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:

SECTION 1. Title C of the Santa Clara County Code is amended by adding a new Division C18 to be entitled and to read as follows:

DIVISION C 18

WOOD BURNING APPLIANCES

CHAPTER I. IN GENERAL

Sec. C18-1. Definitions.

- (a) Bay Area Air Quality Management District ("BAAQMD") means the air quality agency for the San Francisco Bay Area established pursuant to California Health and Safety Code Section 40200.
- (b) EPA means United States Environmental Protection Agency.
- (c) EPA certified wood heater means any wood heater that meets the standards in Title 40, Part 60, Subpart AAA, Code of Federal Regulations in effect at the time of installation and that is certified and labeled pursuant to those regulations.
- (d) Fireplace means any permanently installed masonry or factory built wood burning appliance, except a pellet-fueled wood heater, designed to be used with an air-to-fuel ratio greater than or equal to thirty-five (35) to one (1).
- (e) Gas fireplace means a fireplace or any other listed gas appliance as defined in the Uniform Mechanical Code designed to burn natural gas in a manner that simulates the appearance of a wood burning fireplace and does not burn anything other than natural gas.
- (f) Paints means all exterior and interior house and trim paints, enamels, varnishes, lacquers, stains, primers, sealers, under coatings, roof coatings, wood preservatives, shellacs, and other paints or paint-like products.
- (g) Paint solvents means all original solvents sold or used to thin paints or to clean up painting equipment.

- (h) Pellet-fueled wood heater means any wood burning appliance that operates exclusively on wood pellets.
- (i) Solid Fuel means wood or any other non-gaseous or non-liquid fuel.
- (j) Treated wood means wood of any species that has been chemically impregnated, painted or similarly modified to improve resistance to insects or weathering.
- (k) Waste petroleum product means any petroleum product other than gaseous fuels that has been refined from crude oil, and has been used, and as a result of use, has been contaminated with physical or chemical impurities.
- (l) Wood burning appliance means any fireplace, wood heater, or pellet-fired wood heater or any similar device burning solid fuel used for aesthetic or space-heating purposes. Wood burning appliance does not include stoves used primarily for cooking food for human consumption.

Sec. C18-2. Residential Installations.

Unless otherwise expressly exempted in this Division, all wood burning appliances installed in new residential units or wood burning appliances being added to existing residential units must comply with this Division.

Sec. C18-3. Commercial Installations.

Unless otherwise expressly exempted in this Division, all wood burning appliances installed in new commercial buildings or wood burning appliances being added to existing commercial buildings must comply with this Division. Commercial buildings include, but are not limited to, hotels and restaurants.

Sec. C18-4. Gas Fireplaces.

Gas fireplaces are exempt from the provisions of this Division. However, the conversion of a gas fireplace to a wood burning appliance constitutes the installation of a wood burning appliance and is subject to the requirements of this Division.

Sec. C18-5. Rural Area Exemption.

All wood burning fire appliances installed in residential or commercial buildings

where there is no existing infrastructure for natural gas service within 150 feet of the property line are exempt from the provisions of this Division.

CHAPTER II. PROHIBITIONS

Sec. C18-6. Unauthorized Appliances Prohibited.

No person may install a wood burning appliance that is not one of the following:

- (a) A pellet-fueled wood heater; or
- (b) An EPA certified wood heater; or
- (c) A fireplace certified by EPA or a fireplace certified by an EPA-accredited laboratory as being compliant with the Northern Sonoma County Air Pollution Control District standards for fireplaces, using that district's testing protocol for fireplaces; or
- (d) An outdoor fireplace which is not attached to a structure; or
- (e) A wood burning appliance that is primarily used for the preparation of food.

Sec. C18-7. Prohibited Fuels.

The following fuels are prohibited from use in any wood burning appliance:

- (a) Treated wood, plastic products, rubber products, glossy or colored papers and particle board;
- (b) Any solid, semi-solid and liquid wastes generated from residential, commercial and industrial sources, including trash, refuse, rubbish, industrial wastes, asphaltic products, manure, vegetable or animal solids and semi-solid wastes, or other discarded solid and semi-solid wastes;
- (c) Waste petroleum products;
- (d) Paints or Paint Solvents;
- (e) Coal; and

(f) Salt water driftwood.

Sec. C18-8. Certification

Any person who plans to install a wood burning appliance must first obtain a building permit and submit documentation to the Building Inspection Office demonstrating that the appliance qualifies as one of the wood burning appliances listed in Section C18-6.

CHAPTER III. ENFORCEMENT

Sec. C18-9. Public Nuisance

Violations of this Division are deemed a public nuisance.

Sec. C18-10. Enforcement.

Pursuant to Section 836.5 of the California Penal Code, the county building inspectors are authorized to enforce the provisions of this Division and to issue citations for violation thereof. There will be no civil liability on the part of, and no cause of action will rise against, any building inspector acting pursuant to this section and within the scope of his or her authority.

Sec. C18-11. Inspection and Right of Entry

Building inspectors are authorized to make such inspections as may be necessary to enforce this Division.

Whenever a building inspector has reasonable cause to believe a violation of this Division exists, the inspector must ask permission of the occupant, or the owner or custodian thereof if the premises are unoccupied, for permission to inspect the premises. If permission is denied, the building inspector may obtain an inspection warrant. Entry will not be secured by a grant of authority beyond that otherwise allowed by law.

Sec. C18-12. Criminal Penalties

(a) Any person, entity, organization, firm or corporation who violates or has violated any of the provisions of this Division is guilty of a misdemeanor, provided, however, that the Building Official may charge or the District Attorney may prosecute the

offense as an infraction where such action would be in the best interest of justice.

(b) Each and every day, or any part thereof, during which any violation is committed, continued or allowed is a separate offense.

(c) Each and every violation of this Division which is deemed an infraction is subject to the following penalties:

(1) For a first violation, the violator is punishable by a fine not exceeding \$100 per day or portion thereof that the violation exists.

(2) For a second violation, the violator is punishable by a fine not exceeding \$200 per day or portion thereof that the violation exists.

(3) For each additional violation, the violator is punishable by a fine not exceeding \$550 per day or portion thereof that the violation exists.

(d) Each and every violation of this Division which is deemed a misdemeanor is

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punishable by a fine not exceeding \$1,000, imprisonment in the county jail not exceeding six (6) months, or both.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa

Clara, State of California, on _____ by the following vote:

AYES: Supervisors

NOES: Supervisors

ABSENT: Supervisors


ABSTAIN: Supervisors

BLANCA ALVARADO, Chairperson
Board of Supervisors

ATTEST:

PHYLLIS A. PEREZ
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



KATHY KRETCHMER
Deputy County Counsel

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