



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 02/17/04

AGENDA ITEM 2

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Ordinance Adding Article 6 to Chapter 9 of the Hayward Municipal Code Relating to Regulating Wood-Burning Appliances

RECOMMENDATION:

It is recommended that the City Council adopt the attached Ordinance.

BACKGROUND:

The ordinance was introduced at the February 3, 2004, meeting of the City Council with the following vote:

AYES:	Council Members:	Hilson, Rodriquez, Ward, Dowling, Henson
	Mayor:	Cooper
NOES:	Council Members:	None
ABSENT:	Council Members:	Jimenez
ABSTAIN:	Council Members:	None

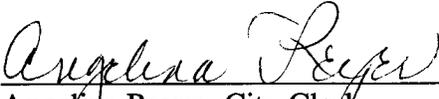
At the February 3, 2004, staff indicated that answers to some of the questions raised during the hearing would be provided when the Council considered the ordinance for adoption.

Accordingly, the Bay Area Air Quality Management District (BAAQMD) reports that on a typical winter day, an average of 183 tons of Particulate Matter (PM) are emitted from all sources in the Bay Area. Of that, 35 tons (19 percent) come from residential wood burning. On cold winter nights these numbers can increase significantly. From November 2002 to February 2003, 5,088 tons of PM were emitted from fireplaces in the Bay Area. According to the Air District, a cord of wood (2 tons) emits 31.8 pounds of PM. A typical household burns 0.28 tons of wood per winter, which generates 0.01 tons (20 pounds) of PM. Also, BAAQMD states that, to date, no open fireplaces have been certified.

Staff checked with several local wood stove dealers and was told that a certified wood-burning stove cannot be easily tampered with to emit more pollution than for which it is designed. The only setting that can be adjusted is a damper, which controls the amount of air fed to the fire. The damper affects the burn time for a log, but will not affect efficiency or emissions. Of the dealers contacted, only one offered a model with a catalytic combustor, but only by special order. The non-catalytic models are generally cleaner, easier to operate and require less maintenance. There are no certified wood-burning appliances that can be used for commercial cooking. This is primarily due to the fact that certified appliances must be fully enclosed to regulate airflow. Due to the very limited number of commercial establishments that might use wood burning ovens, the proposed ordinance would not apply to them.

The ordinance was published in the Hayward Daily Review on February 7, 2004. Adoption at this time is therefore appropriate.

Prepared by:



Angelina Reyes, City Clerk

Approved by:



Jesús Armas, City Manager

Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE ADDING ARTICLE 6 TO CHAPTER 9 OF THE HAYWARD
MUNICIPAL CODE RELATING TO REGULATING WOOD-BURNING APPLIANCES

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS AND PURPOSE. The State Air Resources Board adopted a particulate matter (PM10) Ambient Air Quality Standard (AAQS) in December 1982, and levels for 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. Research indicates that wood smoke is a significant contributor to PM10 levels that pose significant health risks. Studies have determined that medical treatment of respiratory illnesses increases when there is a higher concentration of particulate pollution in the air. The City Council of the City of Hayward desires to lessen the risk to life and property from air pollution from wood-burning appliances and finds that regulating the future installation of wood-burning appliances will significantly reduce the increase in particulate emissions. This ordinance is categorically exempt from environmental review under the California Environmental Quality Act, pursuant to Section 15308 of the CEQA Guidelines, *Actions by Regulatory Agencies for the Protection of the Environment*.

Section 2. The following provisions are hereby adopted and added to Chapter 9 of the Hayward Municipal Code as Article 6:

ARTICLE 6
WOOD-BURNING APPLIANCES

Section 9-6.100. DEFINITIONS. For purposes of this Article, the following words and phrases shall have the meaning ascribed to them as defined by this section:

- (a) "EPA" means the United States Environmental Protection Agency.
- (b) "Gas fireplace" means any device designed to burn natural gas in a manner that simulates the appearance of a wood-burning fireplace.
- (c) "Pellet-fueled wood heater" means any wood-burning appliance that operates exclusively on wood pellets.
- (d) "Wood-burning appliance" means fireplace, wood heater, or pellet-fired wood heater or any similar device burning any solid fuel.

Section 9-6.101 LIMITATIONS. Only gas fireplaces, EPA-certified wood heaters, pellet-fueled wood heaters and fireplaces certified by the Northern Sonoma County Air Pollution District to meet the EPA's emission limit of 7.5 grams of particulate matter per hour, may be installed in new residential construction or in existing residential structures undergoing renovation or expansion where a new wood-burning appliance is proposed. Nothing in this section is intended to prohibit the repair or maintenance of any wood-burning appliance installed prior to the effective date of this Article.

Section 9-6.102 ENFORCEMENT AND REMEDIES. Any person who plans to install a wood-burning appliance must submit documentation to the City demonstrating that the appliance satisfies the requirements of this Article. Any person, firm or corporation violating any of the provisions of this Article shall be subject to the enforcement procedures provided in Chapter 1, Article 3 of this Code.

Section 9-6.103 PROHIBITED FUELS. No person shall cause or allow the burning of any of the following materials in a wood-burning appliance: garbage; plastic products; rubber products; waste petroleum products; paints or paint solvents; coal.”

Section 3. SEVERABILITY AND VALIDITY. If any section, subsection, paragraph or sentence of this ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 4. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after adoption by the City Council.

Introduced at a regular meeting of the Hayward City Council held February 3, 2004, the above-entitled ordinance was introduced by Mayor Cooper.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on February 17, 2004, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California.

DATED: February 7, 2004

Angelina Reyes, City Clerk
City of Hayward