



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Councilmember Ash Kalra
Councilmember Kansen Chu
SUBJECT: SEE BELOW
DATE: September 6, 2012

Approved

Date

Ash Kalra

J.O.

Kansen Chu

9.6.12

**SUBJECT: AMENDMENT OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE
(WOOD BURNING APPLIANCES)**

RECOMMENDATION

- 1.) Direct staff to draft amendments to Title 9 of the Municipal Code to regulate wood burning in order to combat air pollution in San José.
- 2.) Staff should consider the following provisions:
 - a. Include a mandatory Winter Spare the Air Alert burning prohibition.
 - b. Prohibit conversion of gas to wood-burning fireplaces.
- 3.) Place this item on the agenda for the upcoming October 9, 2102 Council Priority Setting Study Session.

BACKGROUND

In the mid-1990's, the Bay Area Air Quality Management District ("Air District") developed a model ordinance for cities and counties to consider for adoption to control fine particulate matter pollution from wood-burning devices. Forty-nine cities and counties subsequently adopted wood smoke ordinances, including San José (adopted in June 2000). The existing San José ordinance includes many provisions of the model ordinance, with the exception of the recommended added provisions listed above.

In 2008, the Air District passed the Wood Burning Rule, which prohibits wood burning on days when the air quality is forecast to be unhealthy. During these alerts, the use of wood-burning devices – including fireplaces, pellet stoves, wood stoves, and outdoor firepits – is illegal. The regulation also limits excess smoke, prohibits burning inappropriate materials, restricts the sale and installation of non-EPA certified devices, requires labeling on firewood and other wood fuels, and prohibits recreational, agricultural and other types of open burning during alerts. The regulation was passed in an effort to reduce fine particle pollution – which is by far the leading public health risk from air pollution in the Bay Area. There have been improvements in air

quality since adoption of the Wood Burning Rule, but the topography of certain areas traps wood smoke and results in pockets of pollution with negative impacts to neighborhood residents.

As a result of these localized effects of these impacts, the Air District is turning to local governments to help protect the health of residents. The Air District has developed a new Model Wood Smoke Ordinance that cities and counties can consider for adoption. Adopting and implementing the 2008 rule has not been enough to ensure San José's air quality, so updating the ordinance is appropriate at this time.

ANALYSIS

Research has regularly shown that California air is among the most polluted in the United States, mainly because the warm, dry climate tends to trap smog. The American Lung Association has assigned San José an F-grade for ozone pollution, and an F-grade for 24-hour particle pollution. These failing grades mean that numerous susceptible groups (including those with asthma, chronic bronchitis, and cardiovascular disease) are put at risk from simply breathing San José's air.

Over the past decade, California has made huge improvements in terms of lessening car exhaust and soot, but there is still the major issue of pollution produced by wood-burning to be addressed.

Most wood-burning devices release far more air pollution than devices using other fuels, such as natural gas. Complete combustion gives off light, heat, gases, and water vapor. However, complete combustion does not occur when wood is burned, and wood smoke is produced. This smoke contains major pollutants such as Carbon Monoxide (CO), Nitrogen Oxides (NO_x), Volatile Organic Compounds (VOCs), and various cancer-causing, toxic pollutants.

Wood smoke contains fine particles that can easily bypass the natural filters in the nose and penetrate deep into the lungs. Scientific evidence indicates that both short-term and long-term exposure can result in a variety of health effects, including asthma, various cardiovascular symptoms, and even premature death. Children and the elderly are among those especially vulnerable to the effects of wood smoke.

During cooler evenings, air cools and sinks close to the ground, and warm air acts as a "lid" over the cold air. When there is no wind to disperse pollutants from fireplaces, smoke is trapped under the lid and builds up to unhealthy levels.

We are mindful of staff's current workload; however, the recommended amendments should not require a significant amount of staff time and analysis. Given that this issue affects the health of every San Jose resident, this issue should be added to the October Priority Setting Study Session for discussion.