



Agenda Report 2014-11-10-04

Date: October 31, 2014

To: John Kovash, Mayor
Members, West Linn City Council

From: John J. Boyd AICP Community Development *JB*

Through: Chris Jordan, City Manager *CJ*

Subject: Approval of the Tualatin Valley Fire and Rescue Fire Prevention Code

Purpose

Tualatin Valley Fire and Rescue (TVF&R) has developed uniform fire regulations for the jurisdictions served. The District seeks Council approval of their adopted fire prevention code to apply within the City of West Linn.

Question(s) for Council:

Does the Council wish to formally adopt the Oregon Fire Code, as amended by TVF&R, to allow enforcement of the Fire Code within the City?

Public Hearing Required:

None required.

Background & Discussion:

TVF&R provides fire and rescue services to the City of West Linn. The Oregon Fire Code is based on the 2012 International Code Council's Fire Code, and it was adopted by the Oregon State Fire Marshal earlier this year with the State's amendments. As a Fire District, the State of Oregon allows TVF&R to further amend the Oregon Fire Code.

TVF&R adopted Ordinance 14-02, adopting and amending the Oregon Fire Code. TVF&R requested that the City pass an ordinance adopting its Fire Code to comply with State law. If a city desires to have a rural fire protection district's code apply in the city, the city must satisfy the statutory requirement to formally adopt the fire code of the appropriate rural fire protection district. Procedurally, all cities in TVF&R's district are required to adopt the fire code. Adoption allows TVF&R and the Building Division to enforce the provisions in the 2014 Oregon Fire Code.

Budget Impact:

N/A

Council Options:

1. This requirement is a mandated procedure; the only reasonable course of action for the City is to approve an ordinance adopting the 2014 Oregon Fire Code.

Staff Recommendation:

Staff recommends adoption of "An Ordinance Relating to the Approval of Tualatin Valley Fire and Rescue's Fire Prevention Code".

Potential Motion:

Council: *Move to approve First Reading of “An Ordinance Relating to the Approval of Tualatin Valley Fire and Rescue’s Fire Prevention Code,” and set the matter for Second Reading.*

If the motion passes unanimously, the Council may: *Move to approve Second Reading for “An Ordinance Relating to the Approval of Tualatin Valley Fire and Rescue’s Fire Prevention Code,” and adopt the ordinance.*

Attachments:

1. West Linn Ordinance 1632
2. TVF&R Ordinance 14-02
3. Question & Answer Page

ORDINANCE NO. 1632

**AN ORDINANCE AMENDING WEST LINN MUNICIPAL CODE 8.175 AND
ADOPTING THE FIRE PREVENTION CODE**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers; and

WHEREAS, the above referenced grant of power has been broadly interpreted to allow local governments to decide upon the scope of their powers in their charter so that specific statutory authorization is not required for a city to exercise its powers, LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978); and

WHEREAS, ORS 478.924 requires a city to approve a fire prevention code adopted by a rural fire protection district if that city desires to have the adopted fire prevention code apply within that city;

WHEREAS, Tualatin Valley Fire & Rescue, the rural fire protection district that provides fire protection within the City, has adopted a "Fire Protection Code" by Ordinance 14-02, attached and incorporated as Exhibit A; and

WHEREAS, the City desires to amend the West Linn Municipal Code to adopt the Fire Prevention Code so that it applies within the City.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Amendment. West Linn Municipal Code Section 8.175 [Fire Code] is amended to read as follows:

~~8.175 Fire Code~~

~~(1) Adoption and Enforcement of Fire Code.~~ For the purposes of prescribing regulations and governing conditions hazardous to life and property from fire or explosion, the 2014 ~~2010~~ Oregon Fire Code based on the 2012 ~~2009~~ International Fire Code as amended by the Oregon Fire Marshal's Office and Tualatin Valley Fire and Rescue is adopted and enforced as part of this code.

SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections **[2-5]**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

SECTION 5. Effective Date. This ordinance shall take effect on the 30th day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 2(C) of the City Charter on the 10th day of November 2014, and duly PASSED and ADOPTED this _____ day of _____, 2014.

JOHN KOVASH, MAYOR

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

EXHIBIT A

ORDINANCE 14-02

AN ORDINANCE ADOPTING FIRE CODES AND STANDARDS FOR TUALATIN VALLEY FIRE AND RESCUE, A RURAL FIRE PROTECTION DISTRICT, PROVIDING FOR A REASONABLE LEVEL OF LIFE SAFETY AND PROPERTY PROTECTION FROM THE HAZARDS OF FIRE, EXPLOSION OR DANGEROUS CONDITIONS IN NEW AND EXISTING BUILDINGS, STRUCTURES, AND PREMISES AND TO PROVIDE SAFETY TO FIREFIGHTERS AND EMERGENCY RESPONDERS DURING EMERGENCY OPERATIONS, AND REPEALING ORDINANCE 10-02 AND 14-01.

WHEREAS, Tualatin Valley Fire & Rescue, A Rural Fire Protection District, has developed uniform fire regulations for the jurisdictions served; and

WHEREAS, Tualatin Valley Fire and Rescue, A Rural Fire Protection District, hereinafter referred to as the District, finds it necessary to adopt regulations that establish a minimum level of fire safety, thus does hereby adopt the following regulations; and now, therefore;

IT IS ORDAINED AS FOLLOWS:

TITLE AND FILING:

This ordinance, including the codes hereby adopted, shall be filed in the records of the District and in the office of Washington, Multnomah, and Clackamas County Clerks and Oregon State Fire Marshal's office as prescribed by ORS 478.940. A copy shall be posted at each fire station within the District. From the date on which this ordinance shall take effect, provisions thereof shall be controlling within the territorial limits of the District and within each city and county within the District approving pursuant to ORS 478.924. The whole of this ordinance shall be known as the Fire Prevention Code and may be referred to as the Fire Code and shall be enforced by the Fire Marshal's Office created by Ordinance 91-02.

SCOPE:

The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to firefighters and emergency responders during emergency operations as authorized by ORS 478.910.

SECTION I – ADOPTION OF THE DISTRICT'S FIRE CODE:

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, except as amended under Sections II and III below, the Oregon Fire Code adopted by the Oregon State Fire Marshal, as it may be amended from time to time, is hereby adopted as the District's Fire Code.

SECTION II – ENFORCEMENT OF FIRE CODE

Notwithstanding provisions in the Oregon Fire Code authorizing or requiring inspections of buildings and premises or testing of fire protection systems and equipment, e.g., Sections 106, or provisions providing for enforcement of the Code, such inspections, testing, and enforcement of the Code shall be discretionary by the Chief and other individuals charged by the Chief with such activities. The District recognizes that it has limited financial resources with which to provide fire, rescue, and other services and functions and is forced to make public policy decisions as to allocation of District resources. Although the District places a high

priority on prevention, inspection, and maintenance of fire systems, due to financial limitations, it is the Board's policy to require inspections only so often as necessary to provide a reasonable level of fire and life safety. Accordingly, although the Fire Chief and other individuals charged by the Chief with these activities are encouraged to pursue them, performing such activities, as well as the scope and frequency of such activities, shall be within the discretion of the Fire Chief. It is the intention of the District to make clear that the District's duty to perform the inspections and testing, or to take enforcement actions as set forth in the Code, is limited to providing a reasonable level of fire and life safety. Such actions are discretionary.

SECTION III – AMENDMENTS TO THE OREGON FIRE CODE:

The Oregon Fire Code is hereby amended as follows:

1. The following new SECTION 907.7.6 is added:

907.6.5.3 Alarm Verification. Supervising Stations shall not retransmit alarm signals to Public Fire Service Dispatch and Communications Centers until an attempt is made to verify the accuracy of the alarm signal at the Protected Premises. Verification attempt shall be made within 90 seconds of receipt of alarm signal. If the Protected Premises is contacted and can confirm that no fire or emergency condition exists, then the alarm signal shall not be retransmitted. In all other situations, the alarm signal shall be immediately retransmitted. This section modifies the retransmission requirements of NFPA 72. Nothing in this section is intended to permit delay of notification devices and evacuation at the Protected Premises.

Exception: Waterflow alarms and Manual Pull Station alarms shall be immediately retransmitted without verification where they can be distinguished by the Supervising Station from other alarm initiating devices at the Protected Premises.

SECTION IV – PENALTIES

Any person who violates any of the provisions of these regulations hereby adopted or fails to comply therewith, or violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statements, specification or plans submitted and approved thereunder and from which no appeal has been taken, or shall fail to comply with such an order as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction within the time affixed herein, shall severally, for each and every such violation and non-compliance respectively, be guilty of a violation of the Fire Prevention Code as provided in ORS 478.930, punishable upon conviction as prescribed by ORS 478.990. All fines or punishments authorized upon conviction shall include the costs to the District to remedy the violation including costs of towing, storage, or removal of the hazard or obstruction if necessary.

The Chief or designated representative may bring a complaint in law or in equity to alleviate a violation of this ordinance as well as in addition to the rights to enforce said ordinance under the provisions of ORS 478.930 and ORS 478.990.

SECTION V – FIRE CODE BOARD OF APPEALS

As authorized by ORS 479.180, the District may establish a board of appeals. Such board of appeals may be implemented through bylaws and other procedures adopted by ordinance of the District. In the event that the District Board adopts a board of appeals, the provisions of this ordinance, where appropriate, are subject to the board of appeals procedures.

SECTION VI – REPEAL OF CONFLICTING ORDINANCES

The provisions of this ordinance, i.e., the Fire Code, shall be controlling within the territorial limits of the District and within each city and county within the District approving pursuant to ORS 478.924. An existing fire code ordinance has been approved within each city and county within the District. The District desires that the existing fire code continue in effect until such time as the cities and counties within the District have approved this new Fire Code pursuant to ORS 478.924. Accordingly, all former ordinances or parts thereof, which are conflicting or inconsistent with the provisions of this ordinance or of the code or standards hereby adopted, are hereby repealed, effective on the effective date of this ordinance; provided, however, that Ordinance 10-02 or 14-01 shall continue in effect in each city or county which has approved it until the city or county approves this Ordinance 14-02. Further, prosecutions or violations under repealed ordinances may continue after the effective date of this ordinance.

SECTION VII – VALIDITY

The District hereby declares that should any section, paragraph, sentence, or word of this ordinance or of the Codes or Standards hereby adopted be declared for any reason to be invalid, it is the intent of the District that it would have passed all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid.


SECTION VIII – DATE OF EFFECT

The Board of Directors of the Fire District finds and determines that it is necessary and expedient that the provisions of this ordinance become effective 30 days following adoption, as authorized by ORS 198.570.

First reading by Title only this 22nd day of July, 2014.

Second reading by Title only this 26th day of August, 2014.

PASSED by the District this 26th day of August, 2014.


PRESIDENT


SECRETARY-TREASURER

Fire Code Ordinance 14-02 Q&A

- Q:** If the State of Oregon already adopts the 2014 Oregon Fire Code, why do cities and counties served by TVF&R need to pass a resolution approving this TVF&R Ordinance?
- A:** ORS 478.910 requires a fire district board to adopt their fire prevention code in accordance with ORS 198.510 to 198.600. Following adoption by TVF&R's Board, ORS 478.924 further mandates that any city or county within the district must also approve the fire code by resolution. If not adopted in a city or county, a legal uncertainty would exist about which agency has jurisdiction over fire code enforcement, plan review services, application of local amendments, appeals board proceedings, and more.
- Q:** Why did TVF&R adopt a new fire code ordinance? What's wrong with the existing one?
- A:** Nothing is wrong, per se, with our current fire code ordinance. The International Code Council develops and publishes a new edition of the International Fire Code every three years, which is subsequently adopted by the Oregon Office of State Fire Marshal. In order for TVF&R to maintain exempt fire district status with the State of Oregon, we are required by OAR 837-039-0015 to adopt regulations that are consistent with minimum state fire code standards. This is nearly identical to the process by which the state adopts other construction codes, such as building, mechanical, plumbing, etc.
- Q:** What is "Exempt Status?"
- A:** TVF&R is an Exempt Jurisdiction per OAR 837, Division 39, meaning that, in the opinion of the State Fire Marshal, we have enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures, and building construction requirements for safety. We also provide reasonable enforcement of those regulations.

Exempt status allows TVF&R to maintain local control and local delivery of all services related to fire code compliance within our Fire District, including required input on construction plans, providing fire code enforcement and assistance, fire safety inspections of commercial buildings, and more. If TVF&R were not an Exempt Jurisdiction, the State Fire Marshal's Office, headquartered in Salem, would have jurisdiction over fire code enforcement. We believe that fire code services are best delivered at the local level, where TVF&R is able to provide the highest degree of customer service to our local government partners, residents, and business community.

- Q:** Why does TVF&R have local amendments to the Fire Code?
- A:** State law allows local fire districts to modify the fire code as deemed appropriate. There is only amendment in this Ordinance, targeting the significant problem of false automatic alarms in our region. Historically, nearly 1 in 10 emergency calls are false alarms dispatched by automatic alarm systems primarily at commercial occupancies - resulting in a huge cost to our taxpayers. False alarms take emergency crews out of service, so they are unavailable for true emergencies, and responding to thousands of false alarms puts emergency apparatus on the road unnecessarily, adding risk to both responders and the public.

The amendment of the fire code requires that alarm monitoring companies attempt to verify the accuracy of alarms in commercial buildings prior to retransmitting to 911 centers, a precaution already taken in household alarm systems for nearly 20 years. This has no impact on the design or construction of buildings – it only impacts how alarm signals are handled by the offsite alarm monitoring companies. This is simply a continuation of a requirement placed in the last ordinance that has helped reduce false alarms by approximately 30%.