

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-189**

Approving Fire Code Ordinance 07-01 for Tualatin Valley Fire and Rescue, a Rural Fire Protection District and Repealing Resolution 99-150

**The Multnomah County Board of Commissioners Finds:**

- a. On July 15, 1999, by Resolution 99-150, the Board approved Fire Code Ordinance 99-01 for Tualatin Valley Fire and Rescue, a Rural Fire Protection District, (District).
- b. On July 24, 2007, pursuant to ORS Chapter 478, the District adopted a new Fire Code Ordinance 07-01.
- c. A portion of the District lies within the boundaries of Multnomah County.
- d. ORS 478.924 requires that Multnomah County approve the new District Ordinance before it can be applied within the boundaries of Multnomah County.

**The Multnomah County Board of Commissioners Resolves:**

1. The Board approves the Fire Code Ordinance 07-01 for Tualatin Valley Fire and Rescue, a Rural Fire Protection District, attached as Exhibit A.
2. Resolution 99-150 is repealed.

ADOPTED this 20th day of December, 2007



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:  
M. Cecilia Johnson, Director, Dept of Community Services

# **ORDINANCE 07-01**

**AN ORDINANCE ADOPTING FIRE CODES AND STANDARDS FOR TUALATIN VALLEY FIRE AND RESCUE A RURAL FIRE PROTECTION DISTRICT, 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, AND REPEALING ORDINANCE 04-01.**

**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 record 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 2007 OREGON FIRE CODE:**

The following code is hereby adopted by the District for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Those certain codes and standards known as:

- A. The International Fire Code, 2006 Edition, as published and copyrighted by International Fire Code Council and as amended and adopted by the Oregon State Fire Marshal's Office and known as the 2007 Oregon Fire Code.

## **SECTION II – ENFORCEMENT OF 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 106.2, 901.6 and 907.20.2 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 MADE IN THE 2007 OREGON FIRE CODE:**

The 2007 Oregon Fire Code is hereby adopted without amendments.

## **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 Fire 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. The existing fire code, Ordinance 04-01, 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, Ordinance 04-01, and 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 the effective date of this ordinance; provided, however, that Ordinance 04-01 shall continue in effect in each city or county which has approved it until the city or county approves this Ordinance 07-01. 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 26<sup>th</sup> day of JUNE, 2007.

Second reading by Title only this 24<sup>th</sup> day of JULY, 2007.

PASSED by the District this 24<sup>th</sup> day of JULY, 2007.

  
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PRESIDENT

  
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SECRETARY-TREASURER

## **Fire Code Ordinance 07-01 Q&A**

**Q:** Why do we need to adopt a new fire code ordinance, what's wrong with the existing one?

**A:** Nothing is wrong, per say, with our current fire code ordinance. The International Code Council develops and publishes a new edition of the International Fire Code every three years. The Oregon Office of State Fire Marshal subsequently adopts a new fire code for the State of Oregon on the same three year cycle, in this case effective April 1, 2007. In order to maintain our exempt jurisdiction status, we are required by OAR 837-039-0015 to adopt regulations that are consistent with minimum state fire code standards.

**Q:** What is "Exempt Status?"

**A:** TVF&R is an Exempt jurisdiction as per OAR 837, Division 39. This means 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, and we provide reasonable enforcement of those regulations.

The significant benefit to being an exempt jurisdiction is the power to adopt and administer a local fire code appeals process. Administering our own local board of appeals precludes an appellant from seeking a second opinion from the Office of State Fire Marshal if they are dissatisfied with the outcome of an appeal. In non-exempt jurisdictions, an appellant can bypass a local appeals process and appeal directly to the Office of State Fire Marshal. Appellants not satisfied with the local appeals process administered by an exempt jurisdiction must seek further remedy through civil court proceedings. There are currently nine exempt jurisdictions in Oregon.

**Q:** Why do we have to adopt a fire code ordinance at all?

**A:** The simple answer is "We don't." Nothing in OAR 837, Division 39 requires a local governmental subdivision to adopt a fire code. If we choose not to adopt a local fire code ordinance, we can still be exempt, but lose our power to administer a local fire code appeals process. If we chose not to adopt a local fire code ordinance, the 2007 Oregon Fire Code, as adopted by the Office of State Fire Marshal would apply in TVF&R's jurisdiction by default.

**Q:** Why don't we have any local TVF&R amendments?

**A:** The trend, based on a Governor's mandate, over the past few code adoption cycles has been to reduce state and local amendments in the interest of consistency and uniformity. Since 1999, the TVF&R Fire Marshal's Office has worked diligently to reduce the number of local amendments. Ordinance 99-01 had 78 TVF&R amendments to the state fire code; Ordinance 04-01 had three TVF&R amendments to the state fire code. The proposal you have in front of you, Ordinance 07-01, contains zero TVF&R amendments to the state fire code.

Along with the trend to reduce amendments has been the use of local policies that clarify the code with regard to TVF&R's specific needs. These policies are developed through a collaborative effort with 16 other metro area jurisdictions in order to promote uniformity of application. The Metro Fire Code Policy Guide is currently being used in over 60 jurisdictions statewide.

**Q:** Wouldn't it be easier to adopt our fire code by resolution?

**A:** Yes, it would. However, ORS 478.910 requires a district board to adopt their fire prevention code in accordance with ORS 198.510 to 198.600. The ORS 198 provisions require adoption by ordinance and require two separate readings for other than emergency adoptions. Following adoption by TVF&R's Board, ORS 478.924 further mandates the provisions of a fire prevention code adopted by a district shall not apply within any city or county within the district unless the governing body of the city or county approves the fire code by resolution.