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DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 30, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Resolution Approving Tualatin Valley Fire & Rescue (TVF&R)
Fire Code Ordinance 2020-21

Purpose/Outcomes	To adopt a resolution approving the Tualatin Valley Fire & Rescue ordinance 2020-21 in accordance to ORS 478.924.
Dollar Amount and Fiscal Impact	Tualatin Valley Fire & Rescue provide services for a small portion of unincorporated Clackamas County. This ordinance has no fiscal impact on the county.
Funding Source	N/A
Duration	Ongoing
Previous Board Action	Scheduled for Issues on September 21, 2021.
Strategic Plan Alignment	<p>1. <i>How does this item align with your Department's Strategic Business Plan goals?</i> Ordinance 2020-01 helps to ensure emergency preparedness and disaster response by providing coordination with TVF&R for daily emergency responses and in the event of a natural disaster. This ordinance allows TVF&R to work through their ordinance to meet the Oregon Fire Code requirements.</p> <p>2. <i>How does this item align with the County's Performance Clackamas goals?</i> <i>By adopting the TVF&R ordinance 2020-01 it ensures we provide safe, healthy and secure communities to Clackamas county residents who are served by TVF&R. The ordinance also builds trust through good government by meeting the state statutes as required in ORS 478.924</i></p>
County Counsel Review	Reviewed and approved by County Counsel on 9-14-21 NB
Procurement Review	<p>1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/></p> <p>2. If no, provide brief explanation: There is no fiscal impact and procurement was not necessary for this ordinance adoption.</p>
Contact Person	Matt Rozzell, Building Codes Administrator (503) 742-4748

BACKGROUND:

Tualatin Valley Fire & Rescue (TVF&R) provides fire protection within portions of Clackamas County. TVF&R reviews and updates its fire code ordinance periodically to reflect changes in state codes, laws, and regulations. For TVF&R to maintain “exempt” fire district status with the State of Oregon, OAR 837-039-0015 requires adoption of regulations that are consistent with minimum state fire code standards. TVF&R Ordinance 2020-01 does that.

TVF&R is an “Exempt Jurisdiction” per OAR 837, Division 39, meaning that TVF&R has enacted adequate regulations conforming to state and national standards concerning fire prevention, fire safety measures, and building construction requirements for safety. TVF&R provides enforcement of those regulations. If adopted, these regulations would only apply in those areas of unincorporated Clackamas County served by TVF&R.

RECOMMENDATION:

Staff respectfully recommends adoption of a Resolution approving Tualatin Valley Fire & Rescue Fire Code Ordinance 2020-01.

Respectfully submitted,

Matt Rozzell

Matt Rozzell, Building Codes Administrator
Department of Transportation and Development

Attachments:

1. Resolution (with signed Tualatin Valley Fire & Rescue Ordinance 2020-01)
2. Tualatin Valley Fire & Rescue FAQ sheet

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Resolution
Approving Tualatin Valley Fire and
Rescue's Fire Code and Repealing
Past Resolutions



Resolution No. _____
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WHEREAS, Tualatin Valley Fire & Rescue is a rural fire protection district that provides fire protection within portions of Clackamas County; and,

WHEREAS, on February 25, 2020, pursuant to ORS 478, the Board of Directors of Tualatin Valley Fire & Rescue has adopted a new Fire Code, Ordinance 2020-01, that incorporates the latest Oregon Fire Code, including any amendments as adopted by the Office of the State Fire Marshal; and,

WHEREAS, the purpose of Ordinance 2020-01, and the associated Fire 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 for the safety of firefighters and emergency responders during emergency operations; and,

WHEREAS, ORS 478.924 requires the county to approve, by resolution, the fire prevention code adopted by Tualatin Valley Fire & Rescue if the county desires to have the adopted fire code apply within the portions of the county served by Tualatin Valley Fire & Rescue; and

WHEREAS, Clackamas County intends that the approval of Ordinance 2020-01 would supersede any past resolutions whereby the County may have approved fire prevention codes adopted by Tualatin Valley Fire & Rescue Tualatin Valley Fire.

NOW, THEREFORE, the Clackamas County Board of Commissions do hereby resolve:

Section 1. The Board approves the Tualatin Valley Fire and Rescue Fire Prevention Code Ordinance 2020-01, attached as Exhibit A. The attached ordinance shall apply within portions of Clackamas County served by Tualatin Valley Fire & Rescue.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Resolution
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Resolution No. _____
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Section 2. Any past resolutions whereby the County may have approved fire prevention codes adopted by Tualatin Valley Fire & Rescue Tualatin Valley Fire are hereby repealed.

Section 3. This resolution takes effect upon its adoption.

DATED this _____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

ORDINANCE 2020-01

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 14-02.

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 with Oregon State Fire Marshal’s office and shall be posted at each fire station as prescribed by ORS 478.940. 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.

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, the Oregon Fire Code adopted by the Oregon State Fire Marshal, as it is replaced and amended from time to time, is hereby adopted as the District’s Fire Code. It is the intention of this ordinance that the District automatically adopts the latest Oregon Fire Code including any amendments as adopted by the Office of the State Fire Marshal without any additional action necessary by the District. Such codes and amendments are adopted on the effective date of the administrative rule adopted by the Office of State Fire Marshal.

SECTION II – ENFORCEMENT OF FIRE CODE

Notwithstanding provisions in the Oregon Fire Code authorizing or requiring inspections of buildings and premises, issuance of permits, review of plans testing of fire protection systems and equipment, or provisions providing for enforcement of the Code, such inspections, plan review, permits, 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, plan review, permits or testing only so often as, and where 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, plan review, issuance of permits 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:

There are no amendments to the Oregon Fire Code adopted by the Oregon State Fire Marshal

SECTION IV – FEES

Cost based fees may be imposed for plan review, inspections, permits or other fire code related services the District is authorized or required to provide under the Fire Code or other applicable statute or regulation, as prescribed in the District's Master Fee Schedule.

SECTION V – 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.

Reinspection fees may be applied for failure to correct violations in accordance with the District's Master Fee Schedule in addition to any other penalties.

SECTION VI – 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 standard operating guidelines adopted by the District.

SECTION VII – 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. If an existing fire code ordinance has been approved within any city or county within the District, the District

EXHIBIT A

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, 14-01 or 14-02 shall continue in effect in each city or county which has approved it until the city or county approves this Ordinance 2020-01. Further, prosecutions or violations under repealed ordinances may continue after the effective date of this ordinance.

SECTION VIII – 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 IX – 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.

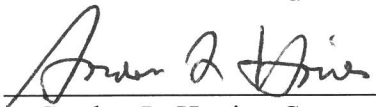
First reading by Title only this 28th day of January, 2020.

Second reading by Title only this 25th day of February, 2020.

PASSED by the District this 25th day of February, 2020.



Clark I. Balfour, President



Gordon L. Hovies, Secretary-Treasurer



Q If TVF&R’s elected board of directors already adopted this ordinance, why do cities and counties served by TVF&R need to pass a resolution approving it?

ORS 478.910 requires a fire district board to adopt their fire prevention code in accordance with ORS 198.510-198.600. 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 could exist about fire code enforcement, plan review services, application of local amendments, appeals board proceedings, and other related issues. The resolution is the mechanism required by state law to ensure that TVF&R has coordinated with city or county governments.

Q Why did TVF&R adopt a new fire code ordinance?

TVF&R reviews and updates its fire code ordinance periodically to reflect changes in state codes, laws, and regulations. For TVF&R to maintain ‘exempt’ fire district status with the State of Oregon, OAR 837-039-0015 requires adoption of regulations that are consistent with minimum state fire code standards. TVF&R Ordinance 2020-01 does that.

Q What is “Exempt Status?”

TVF&R is an “Exempt Jurisdiction” per OAR 837, Division 39, meaning that TVF&R has enacted adequate regulations conforming to state and national standards concerning fire prevention, fire safety measures, and building construction requirements for safety. TVF&R provides enforcement of those regulations.

Exempt status allows TVF&R to maintain local delivery of all services related to fire code compliance within TVF&R’s service area, including: Building official support, fire and arson investigation, fire code enforcement, and fire inspections. If TVF&R were not an “Exempt Jurisdiction”, the State Fire Marshal’s Office would have final jurisdiction over all matters related to fire code and fire investigations. Fire investigation services are best delivered at the local level to provide the highest degree of customer service for local government partners, residents, and businesses.

Q Does TVF&R have local amendments or deviations from the Oregon Fire Code?

No. An amendment was removed from TVF&R’s previous 2014 ordinance related to fire alarm verification since it is now captured in the adopted state code. (Alarm verification can reduce nuisance false alarms.)

Q Does approval of TVF&R’s ordinance give a city/county authority to enforce the fire code?

No. A resolution approving TVF&R’s ordinance does not transfer any authority for fire code enforcement to a city or county. Authority to administer and enforce the fire code is statutorily designated to the State Fire Marshal and local fire officials who serve as “deputies” to the State Fire Marshal.