

**TOWN OF FAIRFAX  
STAFF REPORT**

**To: Mayor, Members of the Town Council**

**From: Michael Rock, Town Manager**  
**Mark Lockaby, Building Official**  
**Jim Moore, Planning and Building Director**



**Date: December 1, 2010**

**Subject: Ordinance Nos. 756 & 756-U - A regular and an urgency ordinance adopting the 2010 Edition of the California Code of Regulations, Title 24, and the 2009 Edition of the International Property Maintenance Code with certain local amendments and additions**

**RECOMMENDATION**

Staff recommends:

1. That the Town Council make a motion to waive further reading of the regular ordinance No. 756, an ordinance adopting the 2010 Edition of the California Code of Regulations, Title 24, and the 2009 Edition of the International Property Maintenance Code with certain local amendments and additions.
2. That the Town Council makes a motion to introduce the proposed regular ordinance No. 756.
3. That the Town Council make a motion to schedule a public hearing, second reading, and adoption of the regular ordinance at the January 12, 2011, Town Council Meeting.
4. That the Town Council make a motion to waive further reading of Ordinance No. 756-U, an urgency ordinance to adopting the 2010 Edition of the California Code of Regulations, Title 24, and the 2009 Edition of the International Property Maintenance Code with certain local amendments and additions.
5. That the Town Council make a motion to adopt the urgency ordinance No. 756-U to take effect on January 1, 2011.

**DISCUSSION**

On July 1, 2010 the State of California published and made available the 2010 Edition of the California Code of Regulations, Title 24 consisting of the following:

- The California Administrative Code
- The California Building Code
- The California Residential Code
- The California Electrical Code
- The California Mechanical Code
- The California Plumbing Code
- The California Energy Code
- The California Historical Building Code
- The California Fire Code

- The California Existing Building Code
- The California Referenced Standards
- The California Green Building Standards Code

The State has mandated that local jurisdictions must adopt the codes with appendices and amendments to be effective by January 1, 2011. California Building Standards are applicable to all occupancies throughout California, whether or not the local government takes an affirmative action to adopt those California Building Standards. However, the standards enforced by statute will be without added appendices and amendments.

The 2009 edition of the International Property Maintenance Code is not included in the California Code of Regulations, but it is referenced for use in the California Building Code, so I have included it for adoption.

The Fire Code will be adopted separately under Chapter 8 of the Fairfax Municipal Code.

**FINDINGS**

The Building Official reviewed the appendices to the Codes and added the necessary items. The Building Official determined not to add Appendix B "Board of Appeals" of Title 24, and to follow Section 108.8 of the building code instead: "In any area in which there is no such board or agency, "Local Appeals Board" means the governing body of the city, county or city and county having jurisdiction over the area". This gives Town Council greater latitude during the appeal process, and no separate appeals board is required.

The amendments we will be carrying forward due to local climatic, geological and/or topographical conditions are:

- 15.04.025 Roof Coverings
- 15.04.030 Barriers for swimming pools, spas, and hot tubs
- 15.04.035 Septic Systems

The following items will continue to be included in Chapter 15 but are not amendments to the codes:

- 15.04.020 Plan Check Fees
- 15.04.040 Correcting Past Violations
- 15.04.045 Fee Adjustments
- 15.08 Reports of Residential Building Records
- 15.12 Numbering of Buildings
- 15.16 Camp Cars and Trailers

To avoid the confusion and ambiguity that would result if the Town's ordinance did not go into effect on the same date as the state law, this Ordinance is being presented as both an urgency ordinance and a regular ordinance.

**FISCAL IMPACT**

The adoption of the building codes should have no fiscal impact.

**ATTACHMENTS**

1. Ordinance 756 adopting the 2010 Edition of the California Code of Regulations, Title 24, and the 2009 Edition of the International Property Maintenance Code with certain local amendments and additions
2. Ordinance 756-U adopting the 2010 Edition of the California Code of Regulations, Title 24, and the 2009 Edition of the International Property Maintenance Code with certain local amendments and additions and making urgency findings.

## ORDINANCE NO. 756

### AN ORDINANCE OF THE TOWN OF FAIRFAX DELETING IN ITS ENTIRETY THE CURRENT CHAPTER 15.04 OF THE TOWN CODE AND ADOPTING A NEW CHAPTER 15.04 IN ITS PLACE

#### THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:

**SECTION 1. Findings.** The Town Council finds that in order to best protect the health, safety and welfare of the citizens of the Town of Fairfax, the standards of building within the Town must conform with state law except where local conditions warrant more restrictive regulations, and, therefore, the Town Council should adopt the current state building codes, contained in California Building Standards Title 24, and other uniform codes governing the construction and regulation of buildings and structures.

Pursuant to California Health and Safety Code section 17958.7, the Town Council makes the factual findings set forth in "Exhibit A" attached hereto and incorporated herein by reference, and finds that the amendments made in this ordinance to the California Building Standards Title 24, Part 2, 2010 California Building Code, incorporating the International Building Code, 2009 Edition, are reasonably necessary because of the local climatic, geological or topographical conditions stated therein.

The Town Council of the Town of Fairfax further finds that adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) under California Code of Regulations, Title 14, § 15061(b)(3).

**SECTION 2. Municipal Code Amended.** Chapter 15.04 of the Town Code is hereby deleted in its entirety and replaced by the following:

#### "CHAPTER 15.04: CONSTRUCTION CODES

##### Section 15.04.010. Adoption of Construction Codes

The following parts of Title 24, California Code of Regulations are adopted by reference as construction codes for the Town of Fairfax, subject to the modifications included later in this Title 15:

- a) 2010 edition of the California Administrative Code (Title 24 Part 1)
- b) 2010 edition of the California Building Code (Title 24 Part 2) based upon the 2009 International Building Code (IBC) including Appendix Chapter A, Employee Qualifications, Appendix Chapter G, Flood-Resistant Construction, Appendix Chapter H, Signs, Appendix Chapter I, Patio Covers, and Appendix Chapter J, Grading.
- c) 2010 edition of the California Residential Code (Title 24 Part 2.5) based on the 2009 International Residential Code (IRC) including Appendix Chapter G Swimming Pools, Spas and Hot Tubs, Appendix Chapter H Patio Covers, Appendix Chapter J Existing Buildings and Structures.

- d) 2010 edition of the California Electrical Code (Title 24 Part 3) based upon the 2008 National Electrical Code (NEC)
- e) 2010 edition of the California Mechanical Code (Title 24 Part 4) based upon the 2009 Uniform Mechanical Code (UMC).
- f) 2010 edition of the California Plumbing Code (Title 24 Part 5) based upon the 2009 Uniform Plumbing Code (UPC)
- g) 2010 edition of the California Energy Code (Title 24 Part 6)
- h) 2010 edition of the California Historical Building Code (Title 24 Part 8)
- i) 2010 edition of the California Existing Building Code (Title 24 Part 10) based upon the 2009 International Existing Building Code (IEBC)
- j) 2010 edition of the California Green Building Standards Code (CALGreen) (Title 24 Part 11).
- k) 2010 edition of the California Referenced Standards Code (Title 24 Part 12).
- l) 2009 edition of the International Property Maintenance Code.

A copy of each of these documents is maintained in the office of the Building Official, and reference is made to them with like effect as if all the provisions and printed matter therein were herein set forth in full.

**Section 15.04.015 Automatic Fire Sprinkler Systems.**

Section R313.1 Exception is hereby deleted in full.

Section R313.2 Exception is hereby deleted in full.

**Section 15.04.020 Plan check fees.**

To Section 109.2 of the California Building Code ("CBC") is added:

When submittal documents are required by Section 107.1, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be sixty-five percent (65%) of the building permit fee.

When private contractors are retained to conduct project plan checks, the plan check fee charged by the Town shall be the total cost of the private plan check plus an additional twenty percent (20 %) of that cost to defer administrative services provided by the Town.

**Section 15.04.025 Roof coverings.**

The following language is added to Section 1505 of the CBC and Section R902 of the CRC to read:

The roof covering on any structure regulated by this code shall be a Class A Roof Covering Assembly as classified by Section 1505.2 of the CBC. When more than fifty percent (50 %) of the total roof area of an existing

structure is replaced within a twelve (12) month period, the entire roof must be replaced with a Class A Roof Covering Assembly.

**Section 15.04.030 Barriers for Swimming Pools, Spas and Hot Tubs:**

The Town Council finds and determines that the maintenance of swimming pools as defined in Section 3109.2 of the California Building Code without protective measures constitutes a hazard to the safety of children and other inhabitants of the town and therefore the regulations contained in section 3109 of the California Building Code and appendix G of the California Residential Code shall apply to existing as well as remodeled and new swimming pools.

**Section 15.04.035 Septic systems.**

**The following language is added to California Plumbing Code Section 713 to read:**

Every building in which plumbing fixtures are installed and every premises having drainage piping thereon, shall have a connection to a public sewer, except as provided in Sections 101.4.1.3, 713.2, 713.4. Exception: A permit may be issued for the repair, replacement, or alteration of a previously constructed septic tank or sewage disposal system other than a septic system where no public sewer is available upon approval by the Town Council, the Planning Commission, the Marin County Health Department, Sanitary District Number 1 of Marin County, and the Bay Area Water Quality Control Board.

**Section 15.04.040. Correcting Past Violations**

Before a new permit can be issued for any parcel, all expired permits for a parcel must be reinstated, all work done without a permit on a parcel must be permitted, and all mandatory correction items noted on the Resale Inspection Reports for that parcel must be permitted or corrected.

To California Building Code Section 105.5  
and The California Residential code [Section R105.5] is added:

Exception: Expired permits which are lacking only a final inspection may be reinstated for a fee of \$50 or the cost of the permit, which ever is less.

**Section 15.04.045. Fee Adjustments.**

The Town Council may, by resolution, revise the fees established by this Chapter.”

**SECTION 3: Validity.**

A. Except as specifically provided herein, nothing contained in this Ordinance shall be deemed to modify or supersede any prior enactment of the Town Council which addresses the same subject addressed herein.

B. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining

portion of this Ordinance. The Town Council of the Town of Fairfax hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

**SECTION 4: Ordinance posting and effective date.**

A. A certified copy of the full text of the ordinance shall be posted in the office of the Town Clerk at least five days prior to the Town Council meeting at which the Ordinance shall be adopted.

B. Copies of the foregoing ordinance shall within fifteen (15) days after its final passage and adoption be posted in three public places in the Town of Fairfax, to wit:

- a. Bulletin Board, Fairfax Town Offices, Town Hall;
- b. Bulletin Board, Fairfax Post Office; and
- c. Bulletin Board, Fairfax Women's Club Building, which said places are hereby designated for that purpose

C. This Ordinance shall go into effect thirty (30) days after its adoption.

D. The Town Clerk shall cause Section 2 of this ordinance to be codified in the Fairfax Municipal Code.

E. This Ordinance, together with the findings in Exhibit A, shall be filed with the California Building Standards Commission within thirty (30) days after its final passage.

The foregoing ordinance amending the Fairfax Town Code was duly and regularly introduced at a regular meeting of the Town Council of the Town of Fairfax held in said Town on December 1, 2010, and was duly passed and adopted at a regular meeting held the 12th day of January, 2011 by the following vote to wit:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Mayor Lew Tremaine

Attest:

\_\_\_\_\_  
Town Clerk

EXHIBIT "A"

**FINDINGS OF FACT AND NEED FOR CHANGES OR MODIFICATIONS  
TO THE CALIFORNIA BUILDING STANDARDS TITLE 24,  
PART 2, 2010 CALIFORNIA BUILDING CODE, INCORPORATING  
THE INTERNATIONAL BUILDING CODE, 2009 EDITION**

Pursuant to Sections 17958.5 and 17958.7 (a) of the State of California Health and Safety Code, the Town Council of the Town of Fairfax has determined and finds that all the changes or modifications in this ordinance to the California Building Standards Title 24, Part 2, 2010 California Building Code, incorporating the International Building Code, 2009 Edition (the "State Building Code"), are needed and are reasonably necessary because of local climatic, geological and/or topographic conditions as discussed below.

The Town Council of the Town of Fairfax hereby finds and determines that:

1. The Town is densely populated, with most structures being of combustible wood frame construction.
2. Many buildings were erected prior to the enforcement of zoning and building laws, with the result that many are located extremely close to each other with no provisions for fire protection.
3. Much of the Town contains heavy vegetation, including groves of highly combustible eucalyptus, pine, oak and bay trees with interconnecting canopies.
4. The Town contains steep terrain and narrow roadways, which reduces the fire department's ability to respond to certain emergency situations.
5. A large portion of the Town's topography consists of very steep hillsides, which severely hampers fire fighting efforts.
6. The Town is located in close proximity to the San Andreas and Hayward seismic faults.
7. The Town has a history of significant flooding from the Fairfax and San Anselmo Creeks and their tributaries.

As a result of these conditions and the resulting health and safety hazards, the Council finds that the changes and modifications to the State Building Code enacted by Chapter 15.04 of the Town Code are reasonably necessary.

## ORDINANCE NO. 756-U

### AN URGENCY ORDINANCE OF THE TOWN OF FAIRFAX DELETING IN ITS ENTIRETY THE CURRENT CHAPTER 15.04 OF THE TOWN CODE AND ADOPTING ANEW CHAPTER 15.04 IN ITS PLACE AND DECLARING THE URGENCY THEREOF

#### THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:

**SECTION 1. Findings.** The Town Council finds that in order to best protect the health, safety and welfare of the citizens of the Town of Fairfax, the standards of building within the Town must conform with state law except where local conditions warrant more restrictive regulations, and, therefore, the Town Council should adopt the current state building codes, contained in California Building Standards Title 24, and other uniform codes governing the construction and regulation of buildings and structures.

Pursuant to California Health and Safety Code section 17958.7, the Town Council makes the factual findings set forth in "Exhibit A" attached hereto and incorporated herein by reference, and finds that the amendments made in this ordinance to the California Building Standards Title 24, Part 2, 2010 California Building Code, incorporating the International Building Code, 2009 Edition, are reasonably necessary because of the local climatic, geological or topographical conditions stated therein.

The Town Council of the Town of Fairfax further finds that adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) under California Code of Regulations, Title 14, § 15061(b)(3).

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**Section 15.04.045. Fee Adjustments.**

The Town Council may, by resolution, revise the fees established by this Chapter.”

**SECTION 3: Validity.**

A. Except as specifically provided herein, nothing contained in this Ordinance shall be deemed to modify or supersede any prior enactment of the Town Council which addresses the same subject addressed herein.

B. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining

portion of this Ordinance. The Town Council of the Town of Fairfax hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

**SECTION 4:                   Urgency Findings.**

The Town Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect on January 1, 2011. Pursuant to state law, the 2010 California Building Standards will automatically take effect in the Town on January 1, 2011.

However, Government Code Section 17958.7 of the California Health and Safety Code allows local agencies to enact modifications to those building standards to address local climatic, geological or topographical conditions. Accordingly, this Ordinance includes several local amendments to the state standards. Thus, if this Ordinance does not become effective immediately, but instead becomes effective thirty days after its second reading, ambiguity and confusion regarding the applicability of the Town's local amendments to the California Building Standards could result. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

**SECTION 5:                   Ordinance posting and effective date.**

- A. A certified copy of the full text of the ordinance shall be posted in the office of the Town Clerk at least five days prior to the Town Council meeting at which the Ordinance shall be adopted.
- B. Copies of the foregoing ordinance shall within fifteen (15) days after its final passage and adoption be posted in three public places in the Town of Fairfax, to wit:
  - a. Bulletin Board, Fairfax Town Offices, Town Hall;
  - b. Bulletin Board, Fairfax Post Office; and
  - c. Bulletin Board, Fairfax Women's Club Building, which said places are hereby designated for that purpose
- C. This Ordinance shall go into effect January 1, 2011.
- D. The Town Clerk shall cause Section 2 of this ordinance to be codified in the Fairfax Municipal Code.
- E. This Ordinance, together with the findings in Exhibit A, shall be filed with the California Building Standards Commission within thirty (30) days after its final passage.

The foregoing ordinance amending the Fairfax Town Code was adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on December 1, 2010 by the following vote to wit:

AYES:  
NOES:  
ABSENT:

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Mayor Lew Tremaine

Attest:

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Town Clerk

**EXHIBIT "A"**

**FINDINGS OF FACT AND NEED FOR CHANGES OR MODIFICATIONS  
TO THE CALIFORNIA BUILDING STANDARDS TITLE 24,  
PART 2, 2010 CALIFORNIA BUILDING CODE, INCORPORATING  
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1. The Town is densely populated, with most structures being of combustible wood frame construction.
2. Many buildings were erected prior to the enforcement of zoning and building laws, with the result that many are located extremely close to each other with no provisions for fire protection.
3. Much of the Town contains heavy vegetation, including groves of highly combustible eucalyptus, pine, oak and bay trees with interconnecting canopies.
4. The Town contains steep terrain and narrow roadways, which reduces the fire department's ability to respond to certain emergency situations.
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As a result of these conditions and the resulting health and safety hazards, the Council finds that the changes and modifications to the State Building Code enacted by Chapter 15.04 of the Town Code are reasonably necessary.