### **ORDINANCE 2015-11**

AMENDING THE FAIR OAKS RANCH CODE OF ORDINANCES CHAPTER 3 "BUILDING REGULATIONS", ARTICLE 3.03; BUILDING CODE, ARTICLE 3.04; RESIDENTIAL CODE, ARTICLE 3.05; ENERGY CONSERVATION CODE, ARTICLE 3.06; PLUMBING, ARTICLE 3.07; ELECTRICITY, ARTICLE 3.08; MECHANICAL CODE, ARTICLE 3.09; FUEL GAS CODE, CREATING ARTICLE 3.16; BOARD OF APPEALS, CHAPTER 5 "FIRE PREVENTION AND PROTECTION" ARTICLE 5.02; FIRE CODE, PROVIDING FOR A PENALTY OF NOT MORE THAN \$2000 PER VIOLATION PER DAY FOR NONCOMPLIANCE, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, it is the desire of the City of Fair Oaks Ranch, Texas, to adopt, in all respects, the various International Codes relating to buildings, residential, energy conservation, plumbing, mechanical, and gas, and to adopt the National Electrical Code, and;

WHEREAS, the adoption of these Codes is done to facilitate proper inspection activities by the City of Fair Oaks Ranch, Texas relating to construction and to maintenance of buildings within the corporate city limits and relating to public safety, health and general welfare, and;

WHEREAS, from time to time, it is necessary to update the city's Building Regulations, found in the Fair Oaks Ranch Code of Ordinances Chapter 3 and the city's Fire Prevention, found in Chapter 5 of same Code, and;

WHEREAS, the city, by local amendment to the adopted codes desires to create and appoint a Board of Appeals to hear and resolve appeals from the determinations of the building official for the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

# **SECTION I. Board of Appeals**

Chapter 3 Building Regulations is hereby amended as follows:

Article 3.16 Board of Appeals is hereby created as set forth in Attachment A

## **SECTION II. Amendments**

# A. Chapter 3 "Building Regulations"

1. Article 3.03 "Building Code" is hereby amended as follows:

Section 3.03.001(a) "Adopted" - .........International Building Code, 2015 edition. Section 113 (IBC) Board of Appeals is hereby repealed in its entirety.

2. International Existing Building Code, 2015 edition.

Section 112 Board of Appeals is hereby repealed in its entirety.

3. Article 3.04 "Residential Code" is hereby amended as follows:

Section 3.04.001(a) "Adopted" - ......International Residential Code for One- and Two-Family Dwellings, 2015 edition, including appendixes A, B, C, D, G, H, and J but excluding Sections R313 and P2904.

Section R112 (IRC) Board of Appeals is hereby repealed in its entirety.

4. Article 3.05 "Energy Conservation Code" is hereby amended as follows:

Section 3.05.001(a) "Adopted" - ......International Energy Conservation Code, 2015 edition.

Section C109 (IEC) Board of Appeals is hereby repealed in its entirety.

5. Article 3.06 "Plumbing" is hereby amended as follows:

Section 3.06.031(a) "Adopted" - ......International Plumbing Code, 2015 edition. Including Appendix E.

Section 109 (IPC) Means of Appeal is hereby repealed in its entirety.

6. Article 3.07 "Electricity" is hereby amended as follows:

Section 3.07.031(a) "Adopted" - ......National Electric Code, 2014 edition.

7. Article 3.08 "Mechanical Code" is hereby amended as follows:

Section 3.08.001(a) "Adopted" - ......International Mechanical Code, 2015 edition. Section 109 (IMC) Means of Appeal is hereby repealed in its entirety.

8. Article 3.09 "Fuel Gas Code" is hereby amended as follows:

Section 3.09.001(a) "Adopted" - ......International Fuel Gas Code, 2015 edition. Including Appendices A, B, and C.
Section 109 (IFGC) Means of Appeal is hereby repealed in its entirety.

- B. Chapter 5 "Fire Prevention and Protection"
  - 1. Article 5.02 "Fire Code" is hereby amended as follows:

Section 5.02.001(a) "Adopted" - ......International Fire Code, 2015 edition. Section 108 (IFC) Board of Appeals is hereby repealed in its entirety.

### **SECTION III. Amendments**

All existing amendments to the International Residential Code 2009 edition, International Plumbing Code 2009 edition, and National Electric Code 2008 edition, shall remain in effect and be considered amendments to the appropriate codes adopted herein.

#### **SECTION IV. Violation**

Any person, firm, corporation, or association violating the provision of this ordinance shall, upon conviction, be fined in any sum consistent with Section 1.01.009 of the Code of Ordinances.

### **SECTION V. Continuing Effect**

That nothing in this ordinance or in the codes adopted herein shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

If for any reason any section, paragraph, subsection, clause, phrase, word, or provision of this Ordinance shall be held invalid or unconstitutional by final judgment of a Court of competent jurisdiction it shall not affect any other section, paragraph, subsection, clause, phrase, work or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subsection, clause, phrase, work, or provision hereof be given full force and effect for its purpose.

This Ordinance shall take effect immediately upon its passage, approval and publication as required by law.

Passed and approved this the 19th day of November, 2015.

Cheryl Landman, Mayor

APPROVED AS TO FORM:

C. Zech, City Attorney

Y. ( W 07104)

P. Abrego, City Secretary

# **BOARD OF APPEALS**

#### Article 3.16 - BOARD OF APPEALS

**3.16.001 General.** In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of the International Building Code, International Residential Code for One and Two Family Dwellings, International Energy International Mechanical Code, International Fuel Gas Code, International Fire Code, Conservation Code, International Plumbing Code, and National Electric Code.

There shall be and is hereby created a Board of Appeals. The Board shall be appointed by the Fair Oaks Ranch City Council and shall hold office at its pleasure. The Board shall adopt rules of procedure for conducting its business.

- **3.16.002** Limitations and Authority. An application for appeal shall be based on a claim that the true intent of these codes or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of these codes do not fully apply or an equally good or better form of construction is proposed. The Board shall not have authority to waive requirements of these codes.
- **3.16.003 Application.** The application for appeal shall be filed on a form obtained from the building codes department within 20 days after the notice was served.
- **3.16.004** Membership of board. The Board of Appeals shall consist of three persons appointed by the City Council, by Resolution, to serve at the will of the City Council or until a successor has been appointed.

The building official shall be an ex officio member of said board but shall have no vote on any matter before the Board.

- **3.16.004(a)** Alternate members. The City Council, by Resolution, shall appoint one alternate member who shall be called by the Board Chairperson to hear appeals during the absence or disqualification of a member. The alternate member shall possess the qualifications required for board membership and shall serve at the will of the City Council or until a successor has been appointed.
- **3.16.004(b) Qualifications.** The Board shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.
- **3.16.004(c)** Rules and Procedures. The Board is authorized to establish policies and procedures necessary to carry out its duties.
- **3.16.004(d) Chairperson.** The Board shall select one of its members to serve as chairperson. The chairperson shall serve at the will of the Board.
- **3.16.004(e)** Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.
- **3.16.004(f) Secretary.** A Building Codes administrative employee shall be designated as the Board of Appeals secretary. The secretary shall file a detailed record of all proceedings in the office of the City Secretary.

- **3.16.005 Notice of meeting.** The Board shall meet upon notice from the chairperson, within 10 days from the filing of an appeal or at stated periodic meetings. Notice of the meetings to the public must comply with the requirements of the Texas Open Meetings Act.
  - **3.16.005(a)** Open hearing. All hearings before the Board shall be open to the public and the conduct of the meeting must comply with the Texas Open Meetings Act. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.
  - **3.16.005(b) Procedure.** The Board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
  - **3.16.005(c)** Postponed hearing. When three members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- **3.16.006 Board decision.** The Board shall modify or reserve the decision of the building official by a concurring vote of two-thirds of its members.
  - **3.16.006(a) Resolution.** The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and to the building official by th Board secretary.
  - **3.16.006(b)** Administration. The building official shall take immediate action in accordance with the decision of the board.