



## Item No. 27 Town of Atherton

### **CITY COUNCIL STAFF REPORT – REGULAR AGENDA**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER**

**THROUGH: MICHAEL KASHIWAGI, COMMUNITY SERVICES DIRECTOR**

**FROM: MICHAEL MAZUR, BUILDING OFFICIAL**

**DATE: OCTOBER 19, 2016**

**SUBJECT: INTRODUCTION OF AN ORDINANCE TO AMEND TITLE 15 OF THE ATHERTON MUNICIPAL CODE ADOPTING BY REFERENCE THE 2016 CALIFORNIA BUILDING STANDARDS CODE, RETAINING EXISTING MODIFICATIONS, AND AMENDING CHAPTER 15.52.040 OF THE ATHERTON MUNICIPAL CODE TO COMPLY WITH 2016 CALIFORNIA GREEN BUILDING CODE.**

### **RECOMMENDATION**

- 1) Introduce the ordinance by Title amending Title 15 of the Atherton Municipal Code.
- 2) Direct the City Clerk to file any notice required by law and schedule a public hearing at its next regular Council meeting on November 16, 2016 and consider adoption of the ordinance.

### **BACKGROUND**

Utilizing a nine-point criteria as provided for in state statute, the California Building Standards Commission (CBSC), through a public hearing process, considers amendments and revisions to the Model Codes from State Regulatory Agencies every three years. Upon CBSC approval, the amended Model Codes are published, and become a part of Title 24 of the California Code of Regulations which are in effect 180 days after publication.

The 2016 California Building Standards Codes that will take effect throughout California on January 1, 2017 (Health and Safety Code (HSC) Section 18938). The Codes specified in the California Code of Regulations, are mandated by the State of California and the Building Official is required to administer and enforce those codes. Copies of the codes are available at the Town's Permit Center offices during regular hours.

## **ANALYSIS**

The amending of certain portions of Title 15 of the Town of Atherton Municipal Code is necessary to maintain consistency among the new building codes, procedures and terminology and the Town's existing regulations.

Provisions within California statute (HSC Sections 17958.7 and 18941.5 (b)) allow local agencies the authority to establish more restrictive building standards when reasonably necessary because of local climatic, geologic, or topographical conditions but not the authority to reduce the minimum standards established by the California Code of Regulations. More restrictive building standards are not being proposed.

Revisions to Atherton Municipal Code "15.52.040 Diversion Requirements" are necessary to be consistent with the more restrictive 2016 California Green Building Code. The amount of nonhazardous waste tonnage required to be diverted from landfill is currently 50% for alterations, additions and full residential reroofing projects or 60% for new construction and demolition. These landfill diversion requirements are being increased to 65%. The increase to 65% is to be consistent with 2016 California Green Code, and to keep California on track for compliance with CalRecycle's statewide goal of 75% for the year 2020 as stated in CA AB 341 (chapter 476, statues of 2011).

Menlo Park Fire Protection District (MPFPD) is anticipating moving forward with their own ordinance, adopting the 2016 CA Fire Code with amendments in November 2016. Once MPFPD finalize their adoption, staff will return as necessary to complete the process of ratifying MPFPD's adoption.

## **POLICY FOCUS**

The proposed ordinance is necessary to avoid conflicts by updating the Towns Municipal code to correctly reference the new codes.

Delaying the adoption of the ordinance would create a regulatory "gap" that would be confusing to both residents, and contractors. In order to avoid a gap in the regulations which could lead to confusion and frustration, staff recommends adoption of the ordinance.

Government Code Section 50022.2 and Health and Safety Code section 17922 requires that local agencies adopt the Building Codes. Staff is also recommending re-adopting an administrative appendix by reference.

## **FISCAL IMPACT**

None

## **PUBLIC NOTICE**

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

The adoption has also been discussed at the Monthly Development Roundtable Meeting where no concerns were raised.

## **ATTACHMENTS**

1. Ordinance Amending Title 15 of the Atherton Municipal Code

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ATHERTON AMENDING MUNICIPAL CODE CHAPTERS 15.02, 15.04, 15.08, 15.12, 15.16, 15.18, 15.19, 15.20 AND 15.44 IN ORDER TO ADOPT BY REFERENCE THE 2016 CALIFORNIA BUILDING STANDARDS CODE, INCLUDING THE BUILDING, RESIDENTIAL, ELECTRICAL, PLUMBING, MECHANICAL, ENERGY, HISTORICAL BUILDING, GREEN AND EXISTING BUILDING CODES AND CHAPTER 1 DIVISION II OF THE 2016 EDITION OF THE CALIFORNIA BUILDING CODE AS THE ATHERTON ADMINISTRATIVE CODE, AND AMEND CHAPTER 15.52.040 OF THE ATHERTON MUNICIPAL CODE TO COMPLY WITH 2016 CALIFORNIA GREEN BUILDING CODE.**

WHEREAS, the California Building Standards Code (CBSC), also known as Title 24 of the California Code of Regulations (CCR), is updated by the California Building Standards Commission from time to time based upon published model codes specified in the California Health and Safety Code; and

WHEREAS, the 2016 CBSC and modifications will take effect on January 1, 2017; and

WHEREAS, local jurisdictions responsible for enforcement of the California Buildings Standards Code must enact local administrative regulations and amendments in order to implement the California Building Standards Code;

**NOW, THEREFORE, THE CITY COUNCIL OF THE TOWN OF ATHERTON DOES ORDAIN AS FOLLOWS:**

**Section 1.** Findings

The City Council finds and determines that:

A. A duly noticed hearing before the City Council was held on October 19, 2016. Copies of the codes to be adopted are on file and available for inspection.

B. The adoption of these codes is exempt from the California Environmental Quality Act under Section 15061(b)(3) of Title 14 of the California Code of Regulations because it will not have a significant effect on the environment.

C. This ordinance is adopted pursuant to Health and Safety Code Section 17958.5 and 17922.1 and Government Code Sections 50022.2 and 50022.3

**Section 2.** Section 15.02.010 of the Atherton Municipal Code is hereby amended to read as follows:

**Section 15.02.010 Adoption of the Administrative Code**

Ordinance No. \_\_\_\_\_  
Adopted \_\_\_\_\_  
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That a certain document, one printed copy of which is on file with the building official of the town, being marked and designated as Chapter 1 of Division II of the 2016 Edition of the *California Building Code* as published by the International Code Council is adopted and incorporated by reference and made a part of this chapter as if fully set out in this chapter, subject to amendments, deletions and additions to it as provided in this chapter. A copy of the 2016 California Building Code printed in code book form shall be kept on file in the office of the City Clerk.

**Section 3.** Section 15.04.10 of the Atherton Municipal Code is hereby amended to read as follows:

**15.04.010 Adopted.**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the 2016 California Building Code, Volumes 1 and 2 (Title 24, Part 2), and the 2016 California Residential Code (Title 24, Part 2.5) with Appendix Chapters V (Swimming Pool Safety Act), and H (Patio Covers) as published by the International Code Council and adopted by the California Building Standards Commission as Title 24 California Code of Regulations, is adopted as the Building Code of the Town for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and/or structures in the Town; control of excavation and grading; providing for the issuance of permits and collection of fees; providing penalties for violation of such code; and each and all of the regulations, provisions, penalties of such 2016 California Building Code, and the 2016 California Residential Code and are referred to, adopted and made a part of this chapter as if fully set out in this chapter, subject to the amendments, deletions and additions thereto, as provided in this chapter.

**Section 4.** Section 15.08.010 of the Atherton Municipal Code is hereby amended to read as follows:

**15.08.010 Adoption of the California Electrical Code, 2016 Edition**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the "2016 California Electrical Code," California Code of Regulations, Title 24, Part 3, is adopted as the Electrical Code of the Town for the purpose of providing for the issuance of permits for the installation or alteration of electrical systems, and the collection of fees for the same, defining certain terms, establishing minimum regulations for the installation or alterations or additions or repairs of electrical systems and the inspection thereof, providing penalties for its violation; and each and all of the regulations , provisions, penalties, conditions and terms of such 2016 California Electrical Code, are referred to, adopted and made part of this chapter as if fully set out in this chapter, subject to the amendments, deletions and additions thereto, as provided in this chapter.

**Section 5.** Section 15.12.010 of the Atherton Municipal Code is hereby amended to read as follows:

**15.12.010 Adoption of the California Plumbing Code, 2016 Edition**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the "2016 California Plumbing Code," including Appendix Chapters as published by the International Association of Plumbing and Mechanical officials, and

adopted by the California Building Standards Commission as Title 24, California Code of Regulations, Part 5, is adopted as the Plumbing Code of the Town, requiring a permit for the installation or alteration of plumbing and drainage systems; defining certain terms; establishing minimum regulations for the installation or alteration or addition or repairs of plumbing and drainage systems and the inspection thereof, providing penalties for its violation; and each and all of the regulations, provisions, penalties, conditions and terms of the 2016 California Plumbing Code are referred to, adopted and made a part of this chapter, as if fully set out in this chapter, subject to the amendments, deletions, and additions thereto, as provided in this chapter.

**Section 6.** Chapter 15.16.010 of the Atherton Municipal Code is hereby amended to read as follows

**15.16.010 Adoption of the California Mechanical Code, 2016 edition**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the "2016 California Mechanical Code," including Appendix Chapters, as published by the International Association of Plumbing and Mechanical officials, and adopted by the California Building Standards Commission as Title 24, Part 4, California Code of Regulations, is adopted as the Mechanical Code of the Town in order to provide complete requirements for the installation and maintenance of heating, ventilating, cooling and refrigeration systems; and each and all of the regulations, provisions, and penalties of such 2016 California Mechanical Code, are referred to, adopted and made a part of this chapter as if fully set out in this chapter, subject to the amendments, deletions and additions thereto, as provided in this chapter.

**Section 7.** Chapter 15.18.010 of the Atherton Municipal Code is hereby amended to read as follows:

**15.18.010 Adoption of the California Energy Code, 2016 edition**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the "2016 California Energy Code", including Appendix Chapter 1-A, as published by the California Building Standards Commission and identified as California Code of Regulations Title 24, Part 6, is adopted as the Energy Code for the Town regulating energy efficiency and conservation for all buildings and structures and each and all of the regulations, provisions, and penalties of such 2016 California Energy Code, are referred to, adopted and made a part of this chapter as if fully set out in this chapter, subject to the amendments, deletions and additions thereto, as provided in this chapter.

**Section 8.** Chapter 15.19.010 of the Atherton Municipal Code is hereby amended to read as follows:

**15.19.010 Adoption of the California Green Building Code, 2016 edition**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the "2016 California Green Building Standards Code or CalGreen", as published by the California Building Standards Commission and identified as California Code of Regulations, Title 24, Part 11, is adopted as the Green Building Code for the Town regulating improving public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a reduced negative impact or

positive environmental impact for all buildings and structures and each and all of the regulations, provisions, and penalties of such 2016 California Green Building Standards Code, are referred to, adopted and made a part of this chapter as if fully set out in this chapter, subject to the amendments, deletions and additions thereto, as provided in this chapter.

**Section 9.** Chapter 15.20.010 of the Atherton Municipal Code is hereby amended to read as follows:

**15.20.010 Adoption of the California Historical Building Code, 2016 edition**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the 2016 California Historical Buildings Code, as published by the International Code Council, and adopted by the California Building Standards Commission as California Code of Regulations Title 24, Part 8, regulating construction in an effort to preserve the character and nature of Historical Buildings within the Town.

**Section 10.** Chapter 15.44.010 of the Atherton Municipal Code is hereby amended to read as follows:

**15.44.010. Adoption of the California Existing Buildings Code, 2016 edition.**

That a certain document, one copy of which is on file in the office of the Building Official of the Town, being marked and designated as the “2016 California Existing Buildings Code”, as published by the International Code Council and adopted by the California Building Standards Commission, as California Code of Regulations Title 24, Part 10, is adopted as the code for the maintenance of existing buildings and structures throughout the Town that are constructed of Unreinforced Masonry and establishing a program for the same.

**Section 11.** Chapter 15.52.040 of the Atherton Municipal Code is hereby amended to read as follows:

**15.52.040 Diversion Requirements**

It is required that at least the following specified percentages of the waste tonnage of the nonhazardous demolition and construction debris generated from the following categories of covered projects shall be diverted from landfills by using recycling, reuse and diversion programs:

A. Demolition:

Sixty Five percent of total waste tonnage.

B. Full residential reroofing projects:

Sixty Five percent of waste tonnage.

C. New construction:

Sixty Five percent of waste tonnage.

D. Alteration and additions:

Sixty Five of total waste tonnage.

Separate calculations and reports will be required for the demolition and for the construction portion of projects involving both demolition and construction.

**Section 12.** Except as hereby amended, said Atherton Municipal Code as amended shall be and remain in full force and effect.

**Section 13.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or circumstances is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof nor other applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Section 14.** This Ordinance shall be posted as required by law within the Town of Atherton and shall be effective on January 1, 2017.

\* \* \* \* \*

*I hereby certify that a public hearing of the foregoing ordinance was held at a regular meeting of the City Council of the Town of Atherton held on \_\_\_\_\_, and was adopted by said City Council at a regular meeting held on \_\_\_\_\_, by the following roll call vote:*

AYES: Council Members:  
NOES: Council Members:  
ABSENT: Council Members:  
ABSTAIN: Council Members:

\_\_\_\_\_  
Elizabeth Lewis, MAYOR  
Town of Atherton

ATTEST:

\_\_\_\_\_  
Theresa N. DellaSanta, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
William B. Conners, City Attorney