

BILL NO. B-46

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, ADOPTING FINDINGS RELATED TO LOCAL CLIMATIC, TOPOGRAPHICAL AND GEOLOGICAL CONDITIONS THAT MAKE THE AMENDMENTS TO THE CALIFORNIA MECHANICAL CODE AND CALIFORNIA PLUMBING CODE REASONABLY NECESSARY; REPEALING SECTIONS 11-101 THROUGH SECTION 11-109 OF ARTICLE 1, CHAPTER 11 OF THE FRESNO MUNICIPAL CODE, AND ADDING SECTIONS 11-101 THROUGH SECTION 11-109 OF ARTICLE 1 TO CHAPTER 11 RELATING TO THE ADOPTION AND AMENDMENT OF THE 2016 EDITIONS OF THE CALIFORNIA BUILDING, RESIDENTIAL, ELECTRICAL, MECHANICAL, PLUMBING, ENERGY, AND GREEN BUILDING STANDARDS CODES.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1: FINDINGS. Pursuant to California Health and Safety Code, section 17958.7 and 18941.5 the Council of the City of Fresno expressly finds the proposed modification to Section 936 to California Mechanical Code restricting and regulating wood-burning appliances as set forth in Section 11-106 of the Fresno Municipal Code is reasonably necessary because of the following local climatic, geological and topographical conditions:

1. The San Joaquin Valley Air Pollution Control District reports, on average the San Joaquin Valley experiences thirty-days that exceed the federal health-based standards for ground-level ozone and more than 100 days over the state ozone standard.

2. The EPA, California Air Resources Board, and Air Pollution Control District have conducted studies of winter-time PM pollution in the Fresno

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:



Ordinance No. _____

urbanized area, and have focused on wood-burning as a primary cause. They have found that wood-burning also generates excess toxic pollutants (PAHs, polyaromatic hydrocarbons) and carbon monoxide. These pollutants build up in Fresno under the inversion layer, leading not only to monitored pollutants that exceed state and federal standards, but to actual measurable increases in respiratory illnesses such as asthma attacks.

3. With regard to topographical conditions, the San Joaquin Valley Air Pollution Control District reports that The San Joaquin Valley Air Basin is approximately 250 miles long and is shaped like a narrow bowl. The sides and southern boundary of the "bowl" are bordered by mountain ranges. The bowl-shaped Valley collects and holds emissions and pollutants.

4. With regard to climatic conditions, the San Joaquin Valley's weather conditions include frequent temperature inversions, long hot summers with numerous days reaching temperatures in excess of 100 degrees, and stagnant, foggy winters, all which are conducive to the formation and retention of air pollutants. These characteristics cause the San Joaquin Valley to be unusually susceptible to air pollution problems.

5. Prohibiting wood burning appliances in new construction and regulating the number and type of wood burning appliances in existing buildings has significantly reduced the amount of toxic pollutants (PAHs, polyaromatic hydrocarbons) and carbon monoxide that is collected and held in the bowl-shaped Valley thus improving the Valley's air quality.

SECTION 2. FINDINGS. Pursuant to California Health and Safety Code, sections 17958.7 and 18941.5 the Council of the City of Fresno expressly finds that the proposed modification to Section 604.1 to California Plumbing Code restricting and regulating the use of galvanized malleable iron, galvanized wrought iron or galvanized steel for building water piping and building supply piping as set forth in Section 11-107A of the Fresno Municipal Code is reasonably necessary because of the following local climatic, geological and topographical conditions:

1. Components including, but not limited to sulfates, chlorides, moisture, pH levels, and soil resistivity, all contribute to a soil environment that can produce corrosion of galvanized malleable iron, galvanized wrought iron, and galvanized steel.

2. Corrosion of building water piping and building supply piping can increase the amount of corrosion related pollutants in the received water supply.

3. Prohibiting the use of galvanized malleable iron, galvanized wrought iron, and galvanized steel will significantly reduce the amount of corrosion related pollutants in the received water supply.

SECTION 3. Sections 11-101 through Section 11-109 of Article 1, Chapter 11 of the Fresno Municipal Code are repealed in their entirety,

SECTION 4. Sections 11-101 through Section 11-109 of Article 1, Chapter 11 are added to the Fresno Municipal Code to read:

ARTICLE 1

**CALIFORNIA BUILDING, RESIDENTIAL, ELECTRICAL, MECHANICAL,
PLUMBING, AND ENERGY CODE**

Section

<u>11-101</u>	<u>California Building Code</u>
<u>11-102</u>	<u>Amendments to the California Building Code</u>
<u>11-103</u>	<u>California Residential Code</u>
<u>11-104</u>	<u>California Electrical Code</u>
<u>11-105</u>	<u>California Mechanical Code</u>
<u>11-106</u>	<u>Amendments to the California Mechanical Code</u>
<u>11-107</u>	<u>California Plumbing Code</u>
<u>11-108</u>	<u>California Energy Code</u>
<u>11-109</u>	<u>California Green Building Standards Code</u>

SECTION 11-101. CALIFORNIA BUILDING CODE. The California Building Code, 2016 Edition, which may be referred to in this Code as the CBC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2015 edition of the of the International Building Code as amended with necessary California amendments and the 2015 International Building Code of the International Code Council, with the exception of Appendix B, are adopted and incorporated by reference into the Code and shall be referred to, along with the City's amendments to the CBC provided in Section 11-102, as the Fresno Building Code. One copy of the CBC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

SECTION 11-102. AMENDMENTS TO THE CALIFORNIA BUILDING CODE. Pursuant to Health and Safety Code Sections 17958.7 and 18941.5, and section 1.1.8 of the CBC, the following provisions shall constitute local agency amendments to the CBC. The following provisions shall be inserted into the CBC based upon the chapter

headings, appendices (if applicable) and section numbers indicated. If the section number is the same number as a number used in the CBC, the provision provided below is intended to replace the same numbered provision in the CBC.

CBC Chapter 1

103.1 Creation of the Enforcement Agency. The Development and Resource Management Department of the City of Fresno is hereby established in the City of Fresno as the appropriate code enforcement agency that shall be under the administrative and operational control of the Department Director.

104.1 General. The Director of the Development and Resource Management Department or his/her designee shall act on behalf of the City of Fresno as "Building Official". The Building Official is hereby authorized and directed to enforce all provisions of this code. The Building Official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of the code provisions.

109.2 Schedule of Fees. All fees assessed in accordance with the provisions of the Fresno Building Code shall be set forth in the City of Fresno Master Fee Resolution.

109.5 Related Fees. Where plans are of such complexity, incomplete, or are changed so as to require additional plan review time than contemplated by the fees set forth herein, an additional fee shall be

shall be charged in accordance with the special services request provision under the Master Fee Resolution with the following exception:

a) For commercial plans with multiple buildings of identical building footprints and floor plans, the plan review fee shall be as determined by the Building Official. The fee shall be based upon circumstances pertaining to the specific application and shall be designed to recover reasonable costs of the Development and Resource Management Department.

110.3.8 Other Inspections. The Building Official may at his/her discretion require inspections of differing trades to be combined in proper chronological order consistent with construction practices to facilitate the use of combination inspection assignments.

112.1 Connection of Service Utilities. Utility connections shall not be permitted until compliance with the provisions of the Fresno Municipal Code as set herein. Electrical Meter: Electrical meters shall be required to be in place and operational prior to final electrical inspection to facilitate testing and acceptance of the entire system. Installation of devices, fixtures, and wiring shall be completed and in working order for testing purposes.

112.2.1 Construction Utilities. The Building Official may permit use of utilities for the purpose of construction provided no potential hazards to life or property is created and compliance with Article 590, CEC (Electrical) or Section 1208.0 CPC (Gas) is satisfied.

112.2 Temporary Power. The Building Official may permit use of utilities for temporary occupancy of a building or structure when circumstances exist to justify the issuance of a Temporary Certificate under Chapter 1 Section 111.3 of the CBC, and the owner enters into a security agreement with the City of Fresno, in a form approved by the Building Official, to insure completion of the required improvements. In addition, a deposit to secure such performance shall be made with the City of Fresno in an amount determined by the Building Official. The Building Official may, in his/her sole discretion, waive the requirement of a deposit.

Section 113 Board of Appeals Note. Note: For additional requirements refer to Section 10-50108 of the Fresno Fire Code as established by the City of Fresno Fire Department.

113.1. General. In order to hear and decide appeals of orders, decisions or determinations by the Building Official relative to the application and interpretation of the Fresno Building Code, there shall be and is hereby created a board of appeals (hereafter referred to as the "Building Standards Appeals Board") consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the City of Fresno. The Building Standards Appeals Board shall perform the following appeal duties:

- a) Determine the suitability of alternate materials, engineering designs, methods of construction and equipment.
- b) Provide reasonable interpretations of the provisions of the Fresno Building Code and other relevant codes.
- c) Hear and decide appeals from the orders of the Building Officials directing the vacation, repair, rehabilitation or demolition of dangerous buildings under the provisions of Chapter 11, Article 3 of the Fresno Municipal Code as applicable to compliance to the provisions set forth in the Fresno Building Code and other relevant codes.
- d) Hear and decide appeals pursuant to the provisions of Section 10-50108 of the Fresno Municipal Code.
- e) Hear and decide appeals from orders of the Building Official directing the vacation, repair, rehabilitation or demolition of substandard buildings under the provisions of Chapter 11, Article 4 of the Fresno Municipal Code as applicable to compliance to the provisions set forth in the Fresno Building Code and other relevant codes.

The Building Official shall serve as an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The Building Standards Appeals Board shall be appointed by the Mayor and shall hold office at the pleasure of the Mayor.

The Building Standards Appeals Board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the Building Official.

113.2.1 Limitations of Authority. The Building Standards Appeals Board shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

114.4.1 Violations. The person, firm, or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor.

CBC Chapter 9 Fire Protection Systems Note.

Note: For additional requirements refer to Fresno Fire Code Section as established by the City of Fresno Fire Department.

CBC Chapter 10

Section 1024 Luminous Egress Path Markings Note.

Note: For additional requirements refer to Section 10-51024 of the Fresno Fire Code as established by the City of Fresno Fire Department.

SECTION 11-103. CALIFORNIA RESIDENTIAL CODE. The California Residential Code, 2016 Edition, which may be referred to in this Code as the CRC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2015 edition of the of the International Residential Code as amended with necessary California amendments and the 2015 International Residential Code of

the International Code Council, are adopted and incorporated by reference into the Code, except that in addition to Chapter 1 of the CRC, Chapter 1 of the Fresno Building Code shall apply to the administration of the CRC. The CRC, incorporated into the Code shall be referred to as the Fresno Residential Code. For purposes of administering the Fresno Residential Code, all references in Chapter 1 of the Fresno Building Code to the "building code" or "code" shall mean and include the Fresno Residential Code. Where provisions of Chapter 1 of the Fresno Building Code overlap with provisions of Chapter 1 of the Fresno Residential Code, the Fresno Building Code controls. One copy of the CRC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

SECTION 11-104. CALIFORNIA ELECTRICAL CODE. The California Electrical Code, 2016 Edition, which may be referred to in the Code as the CEC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2014 Edition of the National Electrical Code as amended with necessary California amendments and the 2014 National Electrical Code of the National Fire Protection Association, are hereby adopted by the City of Fresno and incorporated by reference into the Code, except that Chapter 1 of the Fresno Building Code in addition to Article 89 of the California Electrical Code shall apply to the administration of the CEC. The CEC, incorporated into the Code shall be referred to as the Fresno Electrical Code. For purposes of administering the Fresno Electrical Code, all references in Chapter 1 of the Fresno Building Code to the "building code" or "code" shall mean and include the Fresno Electrical Code. Where provisions of Chapter 1 of the Fresno Building Code

overlap with provisions of Article 89 of the Fresno Electrical Code, the Fresno Building Code shall control. One copy of the CEC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

SECTION 11-105. CALIFORNIA MECHANICAL CODE. The California Mechanical Code, 2016 Edition, which may be referred to in the Code as the CMC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2015 edition of the Uniform Mechanical Code as amended with necessary California amendments and the 2015 Uniform Mechanical Code of the International Association of Plumbing and Mechanical Officials, are hereby adopted by the City of Fresno and incorporated by reference into the Code, except that in addition to Chapter 1 of the CMC, Chapter 1 of the Fresno Building Code shall apply to the administration of the CMC. The CMC, incorporated into the Code, along with amendments to the CMC adopted in Section 11-106 shall be referred to as the Fresno Mechanical Code. For purposes of administering the Fresno Mechanical Code, all references in Chapter 1 of the Fresno Building Code to the “building code” or “code” shall mean and include the Fresno Mechanical Code. Where provisions of Chapter 1 of the Fresno Building Code overlap with provisions of Chapter 1 of the Fresno Mechanical Code, the Fresno Building Code controls. One copy of the CMC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

SECTION 11-106. AMENDMENTS TO THE CALIFORNIA MECHANICAL CODE. Pursuant to Health and Safety Code Sections 17958.7 and 18941.5 and section

1.1.8 of the CMC, the following provisions shall constitute local agency amendments to the CMC. The following provisions shall be inserted into the CMC based upon the section numbers indicated. If the section number used is the same as a number used in the CMC, the provision provided below is intended to replace the same numbered provision in the CMC.

CMC Chapter 9

936.0 Wood-burning Appliances

936.1 Definitions. Whenever the following terms are used in Section 933, they shall have the following meanings:

a) EPA shall mean the United States Environmental Protection Agency.

b) EPA CERTIFIED WOOD HEATER shall mean any wood heater that meets or exceeds combustion emissions standards set forth in the Code of Federal Regulations, Title 40, Part 60, 26 February 1988.

c) FIREPLACE shall mean any masonry or factory-built device to burn wood, composition fire logs, or other solid fuel, with or without a gas log or log lighter, which may have a firebox in excess of 20 cubic feet, which may weigh in excess of 800 kilograms, and which is not a pellet-fueled wood stove.

d) FIREPLACE INSERT shall mean a type of wood heater which is designed to be installed in the opening of a wood-burning fireplace and is connected to the chimney.

e) NEW CONSTRUCTION shall mean any construction or reconstruction or remodeling of any structure requiring the issuance of a building permit by the City of Fresno.

f) PELLET-FUELED WOOD STOVE shall mean any commercially manufactured enclosed combustion appliance that is designed to operate on automatically fed pelletized wood fuel and has a usable firebox volume of less than 20 cubic feet.

g) MANUFACTURED FIREPLACE shall mean any fireplace that is of unitary commercial manufacture and is not synthesized on site of masonry construction components.

h) STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY STANDARDS shall mean the performance and emission standards set forth in Sections 100 through 190 of Chapter 340, Division 21, Oregon Administrative Rules.

i) WOOD-BURNING APPLIANCE shall mean any device that is designed or used to burn wood, composition wood pellets, or composition fire logs for aesthetic, space heating, cooking, and/or water heating purposes within a structure; to include fireplaces, pellet-fueled wood stoves, and wood heaters.

j) WOOD HEATER shall mean a commercially-manufactured, enclosed wood-burning appliance that meets all the following criteria:

- 1) A usable firebox volume of less than 20 cubic feet; and
- 2) A maximum weight less than 800 kilograms, exclusive of chimney and other accessory devices that are not an integral part of the appliance; and
- 3) A combustion air-to-fuel consumption ratio which averages less than 35-to-1, as determined by EPA certification test procedures set forth in code of Federal Regulations, Title 40, Part 60, 26 February 1988; and
- 4) A minimum burn rate with less than five kilograms per hour fuel consumption, as determined by EPA certification test procedures set forth the Code of Federal Regulations, Title 40, Part 60, 26 February 1988.

936.1.1 All Wood-burning Appliances Prohibited in New Construction. Notwithstanding any other provision in the Fresno Municipal Code, no wood burning appliance, as defined herein, shall be installed in any new construction. This section shall not apply to any residential structure or dwelling unit having a lawfully installed wood burning appliance in place as of the effective date of this ordinance.

936.2 Installation of Wood-burning Appliances not permitted in Higher Density Residential Developments. Permits shall not be issued for wood-burning appliances to be installed in dwelling units of residential projects that have densities of more than 10.37 dwelling units per gross

acre. However, one wood-burning appliance may be constructed or installed in each common-use recreation facility in these developments.

936.3 Wood-Burning Appliances Require Air Pollution Emissions Certification. Permits shall be issued only for replacement of existing wood burning appliances lawfully installed prior to the effective date of this ordinance and be issued only for those wood burning appliances certified by the U.S. Environmental Protection Agency (EPA) as meeting the EPA Phase I or Phase II emissions standards; or meeting equivalent State of Oregon Department of Environmental Quality Standards. Effective March 1, 1991, all wood burning appliances to be installed must be EPA-certified as at least meeting Phase II emissions standards. A permit shall only be issued for installation of a wood burning appliance when adequate EPA-approved documentation is provided to demonstrate that the wood burning appliance or fireplace stove model being installed has the appropriate emissions certification.

EXCEPTION: Those pellet-fueled wood stoves not affected by EPA's testing program under the Code of Federal Regulations Title 40, Part 60, Sub-installation by substituting independent, approved, nationally-recognized testing laboratory documentation showing that they emit less than 4.1 grams per hour of particulate matter.

936.4. Coal-burning Appliances Prohibited. No permit shall be issued to install any fireplace or domestic heating or cooking appliance that is designed and intended to use coal as combustion fuel.

936.5. Installation of Wood-burning Appliances Without Permits.
Wood-burning appliances found to be installed on or after November 30, 1990, without required permit(s) shall be cause for an inspection/investigation fee to be charged to the property owner, pursuant to the Master Fee Resolution, and the issuance of a notice to abated (required permits secured, all work completed, and permit final inspection done) within sixty days of owner's receipt of the notice, 75% of the inspection/investigation fee shall be rebated.

If permit(s) were secured to abate the illegal installation, prior to discovery of the illegal installation by the City, no notice shall be issued nor inspection/investigation fee incurred unless the permit(s) to abate the nuisance are not finalized within 90 days.

SECTION 11-107. CALIFORNIA PLUMBING CODE. The California Plumbing Code, 2016 Edition, which may be referred to in the Code as the CPC, as promulgated by the California Building Standards Commission, which incorporates the adoption of the 2015 edition of the Uniform Plumbing Code as amended with necessary California amendments and the 2015 Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, are hereby adopted by the City of Fresno and incorporated by reference into the Code, except that in addition to Chapter 1 of the CPC, Chapter 1 of the Fresno Building Code shall apply to the administration of the CPC. The CPC, incorporated into the Code shall be referred to as the Fresno Plumbing Code. For purposes of administering the Fresno Plumbing Code, all references in Chapter 1 of the Fresno Building Code to the "building code" or "code" shall mean and

include the Fresno Plumbing Code. Where provisions of Chapter 1 of the Fresno Building Code overlap with provisions of Chapter 1 of the Fresno Plumbing Code, the Fresno Building Code controls. One copy of the CPC is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

SECTION 11-107A. AMENDMENTS TO THE CALIFORNIA PLUMBING CODE.

Pursuant to Health and Safety Code Sections 17958.7 and 18941.5 and section 1.1.8 of the CPC, the following provisions shall constitute local agency amendments to the CPC. The following provisions shall be inserted into the CPC based upon the section numbers indicated. If the section number used is the same as a number used in the CPC, the provision provided below is intended to replace the same numbered provision in the CPC.

CPC Chapter 6

604.0 Materials

604.1 Pipe, Tube, and Fittings. The third paragraph of section 604.1 of the California Plumbing Code is hereby deleted in its entirety and amended to read:

Materials for building water piping and building supply piping shall be in accordance with the applicable standards referenced in Table 604.1. Galvanized malleable iron, galvanized wrought iron or galvanized steel are prohibited materials for use both underground and in buildings.

SECTION 11-108. CALIFORNIA ENERGY CODE. The California Energy Code, 2016 Edition as promulgated by the California Building Standards Commission is

hereby adopted by the City of Fresno and incorporated into the Code and shall be referred to as the Fresno Energy Code. One copy of the California Energy Code is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.

SECTION 11-109. CALIFORNIA GREEN BUILDING STANDARDS. The California Green Building Standards Code, 2016 Edition, which may be referred to in the Code as CALGreen, as promulgated by the California Building Standards Commission is hereby adopted by the City of Fresno and incorporated into the Code and shall be referred to as the Fresno CALGreen Code. One copy of the California Green Building Standards Code is on file and available for use by the public in the Development and Resource Management Department, Building and Safety Services Division.]

SECTION 4. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2016.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2016

Mayor Approval/No Return: _____, 2016

Mayor Veto: _____, 2016

Council Override Vote: _____, 2016

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
TALIA KOLLURI-BARBICK
Supervising Deputy City Attorney

- Attachment:
- Exhibit A
 - Exhibit B

TKB:nd (72759nd/tkb)