

**UPDATED
AGENDA BILL**

Subject: Adoption of Ordinance Establishing Standards for New and Reconstructed Woodstove Inserts
Initiated by: Johnny Goetz, Senior Building Inspector

BACKGROUND

At its February 20, 2013 meeting, the Town Council held the first reading of a draft ordinance establishing new standards for installation of woodstove inserts and to require existing inserts to be reconstructed to meet current standards by October 2022. The second reading and adoption of this ordinance has been agendized for the Council's discussion at tonight's meeting, which would cause the ordinance to take effect on April 5th. However, a number of local real estate agents have expressed concern with having an April 5th effective date.

ANALYSIS/DISCUSSION

If the Council adopts the ordinance tonight, it would take effect on April 5th, meaning that any property closing escrow on or after that date would have to have the woodstove insert removed or reconstructed. Several real estate agents have expressed the concern that contracts of sale signed prior to the first reading of the ordinance did not contemplate the woodstove insert issue, with the result that the buyers and sellers did not have an opportunity to think about how to allocate this cost.

OPTIONS ANALYSIS

In order to address the concerns from the real estate agents, Town staff have developed several options for the Council to consider. These options include:

Option 1. Delay the second reading and adoption for some period of time. This would delay the effective date, allowing more escrows that are in place now to close prior to the effective date. This would not require any amendments to the ordinance.

Option 2. Modify the ordinance to specify that it applies to sales of property for which escrow is opened after a certain date. The date could be any date following the effective date of the ordinance. Because a new first reading of the ordinance will be required (which can occur at tonight's meeting), this option would delay the effective date.

Option 3. Adopt the ordinance as written, with any woodstove insert in a property that closes escrow on or after April 5, 2013 required to be removed or reconstructed within 60 days.

Option 4. Provide alternative direction to staff.

VISION CONSIDERATIONS

Adoption of woodstove insert installation standards will help avoid catastrophic fires and will help protect the safety of Mammoth Lakes residents and visitors. Delaying implementation of the ordinance will help ensure that buyers, sellers, and real estate agents have a chance to consider the effect of the ordinance rather than being taken by surprise.

FINANCIAL CONSIDERATIONS

None.

STAFFING CONSIDERATIONS

None. Inspections can be performed by existing staff.

ENVIRONMENTAL CONSIDERATIONS

None.

LEGAL CONSIDERATIONS

The Town Attorney has prepared the draft ordinance.

RECOMMENDATION

Staff recommends that the Town Council choose either Option 1 or Option 2, giving buyers, sellers, and real estate agents more time before the ordinance takes effect.

Attachments:

1. Draft Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
MAMMOTH LAKES AMENDING SECTION 15.04.130 OF AND ADDING
SECTION 15.04.140 TO THE MAMMOTH LAKES MUNICIPAL CODE
REGARDING WOODSTOVE INSERTS**

WHEREAS, pursuant to California Government Code Section 50022.1 *et seq.* the Town of Mammoth Lakes (“Town”) may adopt by reference the California Building Standards Code, 2010 Edition as provided in Title 24 and 25 of the California Code of Regulations and other codes; and

WHEREAS, the California Building Standards Commission (“Commission”) has adopted the 2010 Edition of the California Building Standards Code; and

WHEREAS, California Health and Safety Code Sections 17958.7 and 18941.5 authorize cities to adopt the California Building Standards Code with modifications determined to be reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, the Town has recently experienced a number of chimney fires due to woodstove inserts being improperly installed in pre fabricated firebox’s; and

WHEREAS, the Town wishes to adopt regulations regarding the selection and installation of woodstove inserts; and

WHEREAS, to the extent required, the Town desires to adopt these woodstove regulations as amendments the California Building Standards Code to assure the Codes are tailored to the particular safety needs of the City as required by its unique climatic, geological and topographical conditions; and

WHEREAS, any and all legal prerequisites relating to the adoption of this Ordinance have occurred.

The Town Council of the Town of Mammoth Lakes does hereby ordain as follows:

- 1. Recitals.** The Town Council hereby incorporates by reference the recitals of this Ordinance.
- 2. Purpose.** The purpose of this Ordinance is to adopt safety regulations regarding the selection and installation of woodstove inserts.
- 3. Authority.** California Health & Safety Code Section 17958.7 and 18941.5 require the Town to adopt the California Building Standards Code by reference and authorize the Town to adopt modifications to the California Building Standards Code determined to be reasonably necessary because of local climatic, geological or topographical conditions

4. **Code Findings.** The Town Council hereby finds that the proposed amendments to the 2010 California Building Standards Code are reasonably necessary because of local climatic, geologic or topographic conditions, based on the express findings and determinations, marked in relation to the respective amendments provided in this ordinance, described in "Exhibit A" attached hereto, and hereby adopted by the Town Council as the findings to support the modifications to the California Building Standards Code.

5. **Amendment.** Mammoth Lakes Municipal Code section 15.04.130 is hereby amended to read in full as follows:

15.04.130 - Woodstoves and similar appliances—California Mechanical Code.

It is unlawful for anyone to install and use a woodstove, woodstove insert or similar appliance without first obtaining a building permit and an inspection or approval from the building official or his/her designee authorizing its use.

6. **Amendment.** Mammoth Lakes Municipal Code section 15.04.140 is hereby added to read in full as follows:

15.04.140 – Woodstove inserts — California Mechanical Code.

- A. "Woodstove insert" shall mean a factory-built metal solid fuel burning device designed to be inserted into a fireplace constructed of masonry, metal, or other materials.
- B. All newly installed and/or reconstructed woodstove inserts shall meet the following requirements:
 - 1. Dimensions to combustibles: A minimum of 48 inches vertically of non-combustible material shall be installed within the chase area measured from the top of the existing pre-fabricated metal firebox. A minimum of 24 inches horizontally of non-combustible material shall be installed within the chase area measured from the edge of the woodstove insert. Some construction exceptions may be permitted due to unforeseen circumstances. Further, should the manufacturer's minimum dimensions be greater than the above dimensions, the manufacturer's dimensions shall prevail.
 - 2. Air channels around enclosure panel: Per NFPA 211, passive circulation shall be maintained in the void space around the woodstove insert and the pre-fabricated fireboxes. Passive circulation shall be

installed in each corner of the panels installed with the woodstove insert.

3. Circulation of air in the pre-fabricated fireboxes: Passive circulation shall be maintained around the walls of the pre-fabricated firebox.
 4. Lintel bar: All lintels and all supporting material for said lintels shall be of non-combustible material.
 5. Flue pipe: required spacing of not less than two inches shall be maintained for all installations. No exceptions shall be granted for existing non-conforming flue pipes, and all flue pipes shall meet the standards in this ordinance prior to any final approval being issued.
 6. Support of pre-fabricated fireboxes at the base of unit: Should the woodstove insert assembly weigh more than 200 pounds then the base of the pre-fabricated firebox shall be supported by an approved method and means. Should the complete assembly of the woodstove insert exceed more than two stories in height then the base of pre-fabricated firebox shall be supported regardless of the weight of the woodstove insert.
 7. Pre-fabricated firebox: Any modification to the pre-fabricated firebox shall be approved by the manufacturer of record. Town inspection and verification shall be required prior to installing decorative panels.
 8. Approved manufacturers: Unless otherwise approved by the Board of Appeals, building official and fire marshal, all woodstove inserts shall be manufactured by the following manufacturers: Quadra Fire, Buck Stoves, Regency Fire, Lopi, Jotul, Sierra Stove, Avalon, Pacific Energy, Napoleon, Enviro, Country Stoves, Hampton, Drolet, and Flame XTD.
- C. All woodstove inserts currently installed within the Town shall be removed or be reconstructed to meet the requirements of this section upon the sale of the real property within which the woodstove insert is located (provided that for a property for which escrow is opened in

conjunction with the sale, the requirements of this paragraph shall apply only to properties for which escrow is opened after _____, 2013) or by October 31, 2022 if no sale has occurred prior to that date. This requirement shall apply to all occupancy types, including single family homes, multifamily residential structures, and commercial structures in which woodstove inserts have been installed.

- D. The building official and fire marshal may enforce the provisions of this section. Neither the building official nor fire marshal shall finally approve any building permit for a woodstove insert without determining that the insert complies with the provisions of this section. This subsection is not intended to and does not modify or abrogate any Town immunities set forth in the Government Code.
- E. Pursuant to Section 1102.6(a) of the California Civil Code, sellers of residential real property shall disclose to purchasers of such property the provisions of this section. This disclosure obligation shall be satisfied by providing to each purchaser a "Local Option Real Estate Transfer Disclosure Statement" specified by the Town and by providing a copy of this section.

7. **Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

8. **Effective Date.** The Mayor shall sign and the Town Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

PASSED AND ADOPTED by the Town Council of the Town of Mammoth Lakes this ____th day of February 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Matthew Lehman, Mayor

ATTEST:

Jamie Gray, Town Clerk

EXHIBIT A

Findings to Support Amendments to the 2010 Edition of the California Building Standards Code

This Exhibit A provides the express findings and determinations (where necessary pursuant to California Health & Safety Code Sections 17958, 17958.7 and/or 18941.5) justifying the Town of Mammoth Lakes' amendments to the 2010 California Building Standards Code as reasonably necessary because of local climatic, geologic or topographic conditions.

Amendments to 2010 California Building Standards Code

Amendment Section	Amendment	Justification (see below key to justifications)
15.04.130	Permit requirements for woodstoves	A/B/C/D
15.04.140	Woodstove insert requirements	A/B/C/D

Justifications KEY: Findings to Support Amendments to California Building Standards Code

A – This amendment is necessary for administrative clarification, and does not modify a building standard pursuant to California Health & Safety Code Sections 17958, 17958.7 and/or 18941.5. This amendment establishes administrative standards for the effective enforcement of the building standards in the Town of Mammoth Lakes.

B – This amendment is reasonably necessary because of the following local climatic conditions:

- (i) During the winter the Town experiences of periods of very cold temperatures accompanied by periods of significant snowfall and high winds; and
- (ii) During the summer months relatively hot temperatures with periods of low humidity and high winds. The vegetative environment surrounding the Town varies from meadow/high desert vegetation communities (grass/brush) to densely populated stands of timber.
- (iii) These conditions require building conditions suitable for these wildland environments.

C – This amendment is reasonably necessary because of the following local geological conditions:

- (i) The Town is within an active seismic/volcanic area; and

- (ii) A significant earthquake could render emergency responders incapable of providing adequate emergency response.

D – This amendment is reasonably necessary because of the following local topographical conditions:

- (i) The Town is located in a geographically challenging environment with elevations ranging from approximately 7,500 feet to over 11,000 feet. Slopes vary from relatively flat to hillsides exceeding 60 degrees; and
- (ii) These conditions require building conditions addressing these challenges.

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