

## **Title 15 BUILDINGS AND CONSTRUCTION**

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## **Chapter 15.04 BUILDING NUMBERING SYSTEM**

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### **15.04.010 Designation required.**

All houses, buildings and other structures shall hereinafter be designated by a number as provided in this chapter.

(Ord. 423 § 1, 1931)

### **15.04.020 Generally.**

All of the numbering on streets running east and west or in an easterly and westerly direction shall begin at Main Street and that all of said numbering on streets running north and south shall begin on Graham Street.

There shall be one hundred (100) numbers to each block, the even numbers on the east side of the streets running north and south or in a northerly and southerly direction and on the north side of the streets running east and west or in an easterly and westerly direction, and odd numbers on the west side of streets running north and south or in a northerly and southerly direction and on the south side of streets running east and west or in an easterly and westerly direction.

(Ord. 876, 1971; Ord. 423 § 2, 1931)

**15.04.030 North and south streets.**

In the first block on all streets running north and south or in a northerly and southerly direction beginning at Graham Street and extending both north and south therefrom or in a northerly and southerly direction, on the east side of the street the numbers shall begin with one hundred (100) and go up to and include one hundred ninety-eight (198), using even numbers only, and on the west side of the street the numbers shall begin with one hundred one (101) and go up to and include one hundred ninety-nine (199), using odd numbers only. In the second block from Graham Street on the east side of the street, the numbers shall begin with two hundred (200) and go up to and include 298, using even numbers only, and on the west side of the street, the numbers shall begin with two hundred one (201) and go up to and include two hundred ninety-nine (299), using odd numbers only and so on, in like manner, using one hundred (100) numbers to the block to the northern and southern extremities of the city.

(Ord. 423 § 3, 1931)

**15.04.040 East and west streets.**

In the first block on all streets running east and west or in an easterly or westerly direction, beginning at Main Street and extending both east and west therefrom or in an easterly and westerly direction, on the north side of the street the numbers shall begin with one hundred (100) and go up to and include one hundred ninety-eight (198), using even numbers only, and on the south side of the street the numbers shall begin with one hundred one (101) and go up to and include one hundred ninety-nine (199), using odd numbers only; in the second block from Main Street on the north side of the street, the numbers shall begin with two hundred (200) and go up to and include two hundred ninety-eight (298), using even numbers only, and on the south side of the street the numbers shall begin with two hundred one (201) and go up to and include two hundred ninety-nine (299), using odd numbers only, and so on, in like manner, using one hundred (100) numbers to the block to the eastern and western extremities of the city.

(Ord. 423 § 4, 1931)

**15.04.050 Tags or plates to be affixed.**

All owners or persons in charge of dwelling houses, buildings or other structures within the corporate limits of the city of Toledo shall, within thirty (30) days from passage of the ordinance codified in this chapter, obtain from the city recorder the proper numbers for all dwelling houses, buildings, or other structures of which they are the owners or are in charge and procure at his or their cost suitable metal tags or number plates not less than three inches in height and of uniform size and shape to be prescribed by the city recorder, and affix said metal tags or number plates to all dwelling houses, buildings or other structures of which they are owners or are in charge.

(Ord. 423 § 5, 1931)

**15.04.060 Removal or destruction of tags or plates.**

No persons shall tear down, destroy or remove any number or plate thus affixed to any of said buildings without permission of the city recorder so to do.

(Ord. 423 § 6, 1931)

**15.04.070 Violation—Penalty.**

Any person, firm, company or corporation who shall in any manner fail to comply with any of the requirements of this chapter will be in violation of this chapter. Violation of this chapter will constitute a Class D infraction.

(Ord. 1244 § 15, 1996: Ord. 423 § 7, 1931)

## **Chapter 15.08 BUILDING CODES**

### **Sections:**

[15.08.010 Standards applicable to building.](#)

[15.08.020 City code administration.](#)

[15.08.030 Excavation and grading.](#)

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### **15.08.010 Standards applicable to building.**

In addition to compliance with this and other ordinances of the city, building and related activities shall comply with provisions of each of the specialty codes making up the 1991 Edition of the Uniform Building Code, the 1992 Edition of the CABO One and Two Family Dwelling Code, the 1990 Edition of the Uniform Mechanical Code, adopted by the state of Oregon Building Code Agency; the 1991 Uniform Fire Code, adopted by the State Fire Marshal; and the 1991 Edition of the Uniform Sign Code. No person shall conduct building or related activities without compliance with these standards.

(Ord. 1220 § 1, 1994)

### **15.08.020 City code administration.**

The city shall provide for the administration of a plan checking, permit and inspection program for structural and mechanical work. This city program is applicable to public building, include state building, as well as private building.

(Ord. 1220 § 2, 1994)

### **15.08.030 Excavation and grading.**

Chapter 70, Excavation and Grading, of the appendix to the 1991 Edition of the Uniform Building Code, published by the International Conference of Building Officials shall be in effect in this city.

(Ord. 1220 § 3, 1994)

### **15.08.040 Local interpretation.**

In addition to the appropriate provisions of the Uniform Building Code and similar provisions of other specialty codes, the building official may approve a method of construction not specifically prescribed by this chapter; provided, that the building official finds that the proposed design is satisfactory and that the material, method or work offered is for the purpose intended at least the equivalent of that specifically prescribed by this chapter in quality, effectiveness, fire resistance, durability, safety and energy conservation, and that the director of the department of commerce has not issued a report disapproving the material or method for the purpose. The building official may refer the proposed design to the city

board of appeals, as provided in the appropriate provisions of the Uniform Building Code and a person affected by a ruling on the design by the building official may appeal such ruling to the board of appeals within thirty (30) days of the date of the ruling.

(Ord. 1220 § 4, 1994)

#### **15.08.050 Board of appeals.**

For application in this city, the board of appeals section of the Uniform Building Code and similar provisions of the Mechanical Specialty Code are replaced with the following:

In order to determine the suitability of alternate materials and methods of construction, there is created a Board of Appeals consisting of three voting members who are qualified by experience and training to pass upon matters pertaining to building and related activities. The Building Official shall be an ex officio nonvoting member and shall act as secretary of the board. The Board of Appeals shall be appointed by the City Council and hold office at its pleasure. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant. The Board of Appeals has no authority to grant variances to the provisions of the state specialty codes or the fire and life safety codes. With regard to these codes, the Board may rule on the suitability of alternative materials and methods of construction.

(Ord. 1220 § 5, 1994)

#### **15.08.060 Fees.**

For application in Toledo, Section 304 of the Uniform Building Code is revised, and all fees shall be set by and, if necessary, amended by resolution of the city council.

(Ord. 1220 § 6, 1994)

#### **15.08.070 Violation—Penalty.**

It shall be a violation for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy or maintain any building or structure in the city, or cause the same to be done, contrary to any provisions of this chapter. A violation of this chapter will constitute a Class B infraction. Each day or portion thereof during which any violation of this chapter is committed shall constitute a separate violation.

(Ord. 1244 21, 1996: Ord. 1220 § 7, 1994)

## **Chapter 15.12 ABATEMENT OF DANGEROUS BUILDINGS**

### **Sections:**

[15.12.010 Definitions.](#)

[15.12.020 Nuisance.](#)

[15.12.030 Initial action.](#)

[15.12.040 Hearing—Mailed notice.](#)

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[15.12.080 Assessment.](#)

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[15.12.100 Violation—Penalty.](#)

**15.12.010 Definitions.**

For the purposes of this chapter:

"Dangerous building" means and includes:

1. A structure which, for the want of proper repairs or by reason of age and dilapidated condition or by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus, or for any other cause or reason, is especially liable to fire and which is so situated or occupied as to endanger any other building or property or human life;
2. A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable substance of any kind especially liable to cause fire or danger to the safety of such building, premises or to human life;
3. A structure which has been damaged by fire, earthquake, wind, flood or other natural force to a point that it is a danger to other building or property or human life;
4. A structure which is kept or maintained or is in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases;
5. A structure in such weak or weakened condition, or dilapidated or deteriorated condition, as to endanger any person or property by reason of probability of partial or entire collapse.

"Person" means and includes every natural person, firm, partnership, association or corporation.

(Ord. 1101 § 1, 1980)

**15.12.020 Nuisance.**

Every building or part thereof which is found by the city council to be a dangerous building is declared to be a public nuisance and may be abated by the procedures specified in this chapter, or a suit for abatement may be brought by the city.

(Ord. 1101 § 2, 1980)

**15.12.030 Initial action.**

Whenever a city official finds or is of the opinion that there is a dangerous building in the city, that official may prepare a report and submit it to the city council. The council then shall, within a reasonable time, fix a time and place for a public hearing on the matter.

(Ord. 1101 § 3, 1980)

**15.12.040 Hearing—Mailed notice.**

Notice shall be sent by the city recorder by certified mail, return receipt requested, to the owner of record of the premises where the building in question is located, notifying the owner in general terms that a hearing will be held concerning the nuisance character of the property and the time and place of the hearing. A copy of this notice shall also be posted on the property. At the stated time and place, or at such other time or place as the council may adjourn to, the hearing shall be held. The council shall determine by resolution whether or not the building is dangerous. The council may, as a part of the

hearing, inspect the building, and the facts observed by the council at the inspection may be considered by it in determining whether or not the building is dangerous. At the hearing, the owner or other person interested in the property or building shall have the right to be heard. At the hearing, the council may order the building declared to be dangerous and to be removed and abated if in its judgment removal or abatement is necessary in order to remove the dangerous condition, or the council may order the building made safe and prescribe what acts or things must be done to render the building safe.

(Ord. 1101 § 4, 1980)

#### **15.12.050 Published and posted notice.**

Notice of a hearing shall be published at least ten (10) days before the hearing in a newspaper of general circulation in the city or shall be posted in three public places in the city for the same period of time. If the notice is published or posted as required by this section, no irregularity or failure of delivery of the mailed notice shall invalidate the proceedings.

(Ord. 1101 § 5, 1980)

#### **15.12.060 Council orders—Notice.**

Notice of the findings and orders made by the city council at the hearing shall be delivered to or sent by certified mail, return receipt requested, to the owner of record of the premises, his agent, or other person controlling the building. If the orders are not obeyed and the building rendered safe within the time specified by the order (being not less than five days), then the council may order the building removed or made safe at the expense of the owner of the property on which the building is situated.

(Ord. 1101 § 6, 1980)

#### **15.12.070 Abatement by city.**

If the council orders are not complied with, the council may specify the work to be done, file a statement thereof with the recorder, and have the work performed by the city public works department or advertise for bids for doing the work in the manner provided for advertising for bids for public improvement work. If bids are requested, they shall be received, opened and the contract let.

(Ord. 1101 § 7, 1980)

#### **15.12.080 Assessment.**

The city council shall determine the total cost of the work performed, including an administrative cost of twenty (20) percent if the city performs the work, and assess that cost against the property on which the building is situated. The assessment shall be declared by resolution, entered in the docket of city liens, and shall then become a lien against the property. The creation of the lien and the collection and enforcement of the cost shall all be performed in substantially the same manner as in the case of the cost of street improvements, but irregularities or informalities in the procedure shall be disregarded.

(Ord. 1101 § 8, 1980)

#### **15.12.090 Summary abatement.**

The procedures of this chapter pertaining to council declaration of a dangerous building need not be followed where a building is unmistakably dangerous and imminently endangers human life or property. In that instance, the chief of the fire department, the fire marshal or the chief of police may proceed summarily to abate the building.

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(Ord. 1101 § 9, 1980)

### **15.12.100 Violation—Penalty.**

A person who is the owner of or is in possession of or is in responsible charge of a dangerous building within the city of Toledo, and who knowingly permits the building to remain dangerous beyond the time period set forth in the order as required by [Section 15.12.060](#) of this chapter, will be in violation of this chapter. This violation will constitute a Class A infraction. This remedy is not intended to be exclusive, and the city of Toledo may pursue any other remedy available to it by law.

(Ord. 1244 § 14, 1996: Ord. 1118, 1980: Ord. 1101 § 10, 1980)

## **Chapter 15.16 FLOOD HAZARD PROTECTION**

### **Sections:**

[15.16.010 Title.](#)

[15.16.020 Definitions.](#)

[15.16.030 Applicability.](#)

[15.16.040 Basis for establishing the areas of special flood hazard.](#)

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[15.16.160 Flood hazard reduction—Specific standards.](#)

[15.16.170 Floodways.](#)

[15.16.180 Before regulatory floodway.](#)

### **15.16.010 Title.**

This chapter shall be known as the "floodplain ordinance" of the city of Toledo, Oregon.

(Ord. 1181 § 1, 1987)

**15.16.020 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "one hundred (100) year flood." Designation on maps always includes the letters A or V.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"Existing manufactured home park or subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements of this chapter found at [Section 15.16.160\(A\)\(2\)](#).

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"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, or reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not included as dwelling units or not part of the main structure.

"Structure" means a walled or roofed building including a gas or liquid storage tank that is principally above ground.

"Substantial damage" means any damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration to any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

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- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(Ord. 1289 § 1, 2001; Ord. 1181 § 2.0, 1987)

(Ord. No. 1329, §§ 1, 2, 10-7-2009)

### **15.16.030 Applicability.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Toledo, Lincoln County, Oregon.

(Ord. 1181 § 3.1, 1987)

### **15.16.040 Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Lincoln County, Oregon, and Incorporated Areas" dated December 18, 2009, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at Toledo City Hall, 206 N. Main Street, Toledo, Oregon. The best available information for flood hazard area identification as outlined in [Section 15.16.120\(B\)](#) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under [Section 15.16.120\(B\)](#).

(Ord. 1181 § 3.2, 1987)

(Ord. No. 1329, § 3, 10-7-2009)

### **15.16.050 Noncompliance—Violation—Penalty.**

Any structure or land which is constructed, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations will be in violation of this chapter. Violation of this chapter will constitute a Class A infraction. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 1244 § 18, 1996; Ord. 1181 § 3.3, 1987)

### **15.16.060 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 1181 § 3.4, 1987)

### **15.16.070 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 1181 § 3.5, 1987)

**15.16.080 Warning and disclaimer of liability.**

The degree of flood protection under this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, and any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 1181 § 3.6, 1987)

**15.16.090 Development permit required.**

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in [Section 15.16.040](#). The permit shall be for all structures including manufactured homes, as set forth in the definitions, and for all development including fill and other activities, also as set forth in the definitions.

(Ord. 1181 § 4.1-1, 1987)

**15.16.100 Development permit—Application.**

- A. Application for a development permit shall be made on forms furnished by the city of Toledo and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Specifically, the following information is required:
  - 1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
  - 2. Elevation in relation to mean sea level to which any structure has been floodproofed;
  - 3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in [Section 15.16.160\(B\)](#); and
  - 4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(Ord. 1181 § 4.1-2, 1987)

**15.16.110 Administrator—Designation of the city manager.**

The city manager or his/her designate is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 1181 § 4.2, 1987)

(Ord. No. 1329, § 4, 10-7-2009)

**15.16.120 Duties and responsibilities of the city manager.**

Duties of the city manager shall include but not be limited to:

- A. Permit Review.

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1. Review all permits to determine that the permit requirements of this chapter have been satisfied.
  2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of [Section 15.16.170\(A\)](#) are met.
- B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with [Section 15.16.040](#), the city manager shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections [15.16.160](#) and [15.16.170](#)
- C. Information to be Obtained and Maintained.
1. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection B of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  2. For all new or substantially improved floodproofed structures:
    - a. Verify and record the actual elevation (in relation to mean sea level); and
    - b. Maintain the floodproofing certifications required in [Section 15.16.100\(B\)\(3\)](#).
  3. Maintain for public inspection all records pertaining to the provisions of this chapter.
- D. Alteration of Watercourses.
1. Notify adjacent communities, the Division of State Lands, and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between the mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76).

(Ord. 1181 § 4.3, 1987)

### **15.16.130 Variance—Appeal board.**

- A. The city of Toledo planning commission shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The planning commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the city manager in the enforcement or administration of this chapter.
- C. An appeal from an action or ruling by the planning commission as authorized by this chapter shall be made to the city council within fifteen (15) days after the action or ruling by filing written notice with the city manager. If no appeal is taken within the fifteen (15) day period, the action or ruling of the planning commission shall be final. If an appeal is filed, the council shall receive a report and recommendation from the appropriate city official and shall hold a public hearing and consider the

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appeal de novo. Notice of the public hearing shall be by one publication in a newspaper of general circulation in the city not less than five days nor more than fifteen (15) days prior to the date of the hearing.

In order to have standing for an appeal, a person must have been mailed written notice or have participated in writing or in person at the planning commission public hearing or have been substantially affected by the action or ruling.

- D. In passing upon such applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and;
1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations for the proposed use which are not subject to the flooding or erosion damage;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  11. The costs of providing governmental services during and after the flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. Upon consideration of the factors of subsection D of this section and the purposes of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The city manager shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(Ord. 1181 § 4.4-1, 1987)

### **15.16.140 Variance—Conditions.**

- A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in [Section 15.16.130\(D\)](#) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
- C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

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- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause;
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in [Section 15.16.100](#), or conflict with existing local laws or ordinances.
- F. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except [Section 15.16.140\(A\)](#), and otherwise complies with Sections [15.16.150\(A\)](#) of the general standards.
- H. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(Ord. 1181 § 4.4-2, 1987)

(Ord. No. 1329, § 5, 10-7-2009)

### **15.16.150 Flood hazard reduction— General standards.**

In all areas of special flood hazards, the following standards are required:

- A. Anchoring.
  - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - 2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of the over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- B. Construction Materials and Methods.
  - 1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - 3. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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### C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five acres (whichever is less).

### E. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section [15.16.120\(B\)](#)) applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, and photographs of past flooding where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(Ord. 1181 § 5.1, 1987)

### **15.16.160 Flood hazard reduction—Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in [Section 15.16.040](#) or [Section 15.16.120\(B\)](#), the following provisions are required:

#### A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

#### B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

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1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in [Section 15.16.120\(C\)\(2\)](#);
4. Nonresidential structures which are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;
5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (such as a building constructed to the base flood level will be rated as one foot below that level).

### C. Manufactured Homes.

1. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM:
  - a. Outside of a manufactured home park or subdivision,
  - b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of [Section 15.16.150\(A\)\(2\)](#).

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of (1) above, be elevated so that either:
  - a. The lowest floor of the manufactured home is one foot above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

### D. Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the applicable FIRM either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days or as permitted in Toledo Municipal Code [8.08](#), whichever is less,
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of [Section 15.16.160 \(C\)](#) above and the elevation and anchoring for manufactured homes.

(Ord. 1289 §§ 3—5, 2001; Ord. 1181 § 5.2, 1987).

(Ord. No. 1329, §§ 6—8, 2, 10-7-2009)

### **15.16.170 Floodways.**

Located within areas of special flood hazard established in [Section 15.16.040](#) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections [15.16.150](#), [15.16.160](#) and [15.16.170](#)

(Ord. 1181 § 5.3, 1987)

### **15.16.180 Before regulatory floodway.**

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 1329, § 9, 10-7-2009)

## **Chapter 15.20 EROSION CONTROL STANDARDS, DRAINAGE CONTROL, AND GEOLOGIC HAZARDS**

### **Sections:**

[15.20.010 Purpose.](#)

[15.20.020 Definitions.](#)

[15.20.030 Erosion/sedimentation control standards.](#)

[15.20.040 Drainage control.](#)

[15.20.050 Geologic hazard areas.](#)

[15.20.060 Geologic hazard standards.](#)

[15.20.070 Violation—Penalty.](#)

[15.20.080 Fees.](#)

### **15.20.010 Purpose.**

The purpose of this ordinance is to protect life, property, and the natural environment by establishing erosion control, drainage control, and geologic hazard standards to prevent and to minimize the impact that development of lands and construction of structures can have when conducted without proper regard for geologic hazards. This ordinance is intended to protect the property owner/developer, subsequent property owners, and adjacent property owners from development activities that without proper safeguards can lead to the loss of life and property and adversely impact the natural environment to the detriment of the individual and the public. The ordinance attempts to meet these goals by establishing

erosion control standards and drainage control standards generally applicable to development in all areas including geologically hazardous areas and by establishing, more specific requirements for development in an identified geologically hazardous area.

(Ord. 1288 § 1 (part), 2001)

#### **15.20.020 Definitions.**

The following definitions are provided for use within [Chapter 15.20](#).

"City manager" means the city manager or the manager's designee.

"Clearing" means the mechanical removal of both vegetation and earth material.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to constructing, erecting, and/or placing buildings or other structures, mining, dredging, filling, grading, paving, excavating, and drilling operations. Development does not include common gardening and/or landscaping practices that do not result in a significant change in existing drainage patterns of water flowing off the property, that do not result in sediment laden water entering streets, waterways or storm water drainage systems, and that do not result in a significant change in the existing topography of the property such that adjacent properties may be adversely impacted. Development also does not include: 1) the regrading of existing driveways, roads or parking lots, [2](#)) the digging of cemetery graves, 3) refuse disposal sites controlled by other regulations, 4) exploratory excavations under the direction of soil engineers or engineering geologists, [5](#)) excavations for wells or tunnels, or [6](#)) the stockpiling of rock, sand, gravel, aggregate, or clay for use offsite.

"Earth material" means any rock, natural soil or fill or any combination thereof.

"Erosion/Sedimentation Control (ESC) facilities" are physical structures or items such as silt fences, netting, weirs, fabric filters, hay bales, mulch, fences, ditches, etc. designed to control water flows, run-off and sedimentation of soils.

"Excavation" means the mechanical removal of earth material.

"Fill" means a deposit of earth material placed by artificial mechanical means.

"Grading" means any excavating or filling or combination thereof.

(Ord. 1288 § 1 (part), 2001)

#### **15.20.030 Erosion/sedimentation control standards.**

The following erosion/sedimentation control standards shall apply to development on all properties within the city limits of Toledo:

- A. An excavation/fill permit shall be obtained from the city of Toledo prior to any of the following activities:
  1. Filling any site with more than twenty (20) cubic yards of soil or when placement of fill would obstruct an existing drainageway;
  2. Excavating more than a surface area of five hundred (500) square feet on slopes of less than fifteen (15) percent;
  3. Excavating on any area of slopes of fifteen (15) percent or more;
  4. Grading of land; and/or
  5. Clearing of land involving cuts of more than six inches into the ground.
- B. All development that requires an excavation/fill permit shall meet the following specifications for erosion control:

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1. The boundaries of the fill/excavation/ grading/clearing limits shall be clearly flagged in the field prior to construction. During the construction period no disturbance beyond the flagged limits shall be permitted. The flagging shall be maintained by the contractor for the duration of construction.
2. The erosion/sedimentation control (ESC) facilities must be constructed in conjunction with all excavation/fill permit activities, and in such manner as to ensure that sediment laden water does not leave the site and/or enter the drainage system or violate applicable standards.
3. During the construction period ESC facilities shall be upgraded as needed for unexpected storm events and to ensure that sediment laden water does not leave the site.
4. Inspection and Maintenance of the ESC facilities:
  - a. On active sites, ESC facilities shall be inspected daily by the contractor and/or the property owner and maintained as necessary to ensure their continuing function.
  - b. On inactive sites, ESC facilities shall be inspected by the contractor and/or the property owner and maintained a minimum of once a month and within twenty-four (24) hours following a storm event.
  - c. All ESC facilities materials shall be installed and maintained in good physical condition to provide proper sediment retention.
5. An ESC facilities plan shall be submitted with the excavation/fill permit for approval of the city manager. Unless the applicant submits an equal or better ESC facilities plan that the city manager determines will provide adequate erosion/sedimentation control, the ESC facilities plan shall include a combination of the following as approved by the city manager:
  - a. Stabilized construction entrances shall be installed at the beginning of construction and maintained for the duration of the project. Additional measures may be required to ensure that all paved areas, including any transport routes and/or fill sites, are kept clean for the duration of the project.
  - b. Filter fabric/cloth. Where practical the filter fabric shall be purchased in a continuous roll cut to the length of the barrier to avoid use of joints. When joints are necessary, filter cloth shall be spliced together only at a support post, with a minimum six inch overlap, and both ends securely fastened to the post.
  - c. Storm inlets protection shall be installed to prevent sediment from entering storm drains prior to permanent stabilization of disturbed areas.
  - d. Seeding/mulching/landscaping.
    1. For projects with exposed ground surfaces anticipated between October 1 and April 30, seeding and/or mulching to occur immediately after ground surfaces are exposed from grading/clearing operations.
    2. Loose, weed-free straw mulch shall be applied at a rate of no less than four thousand (4000) pounds (two tons) per acre. And shall have a minimum depth in place of two inches.
    3. For slopes with a grade of ten (10) percent or more, mulch must be stabilized in place by hand or machine punching the straw into the soil, spraying it with a tacking agent, or covering it with an erosion blanket.
  - e. At the end of site construction, permanent site revegetation with an establishment of a healthy stand of grass (or alternative vegetation as approved) must occur prior to removal of site erosion control measures.
    1. Revegetation seeding. Top soil should be prepared according to landscaping plans or recommendations of grass seed supplier. Bonding agents shall use tackifier per supplier recommendations to apply grass seeding to disturbed

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areas. Recommended erosion control grass seed mixes are as follows. Similar mixes designed to achieve erosion control may be substituted if approved by the city manager:

a. Dwarf grass mix (low height, low maintenance):

elka dwarf perennial ryegrass, 80% by weight

creeping red fescue, 20% by weight

Application rate: 100 pounds minimum per acre

b. Standard height grass mix:

annual ryegrass, 40% by weight

turf type fescue, 60% by weight

Application rate: 100 pounds minimum per acre

2. Fertilization for grass seed. Fertilization should be as per recommendations of the manufacturer. Areas within fifty (50) feet of water bodies and wetlands must use a non-phosphorus fertilizer.
3. Netting and anchors should be used for disturbed areas on slopes. Biodegradable netting is desirable and may be used instead of bonding agents to provide a stable area for seeding. Netting should be anchored per manufacturer's recommendations.
4. Watering. Seeding and landscaping should be supplied with adequate moisture. Supply water as needed especially in abnormally hot or dry weather or on adverse sites. Water application rates should be controlled to provide adequate moisture without causing run-off.
5. Reseeding. Areas which fail to establish vegetative cover adequate to prevent erosion shall be reseeded as soon as such areas are identified.

(Ord. 1288 § 1 (part), 2001)

### **15.20.040 Drainage control.**

- A. Drainage control is required for all development requiring an excavation/fill permit and/or a building permit.
- B. A drainage control plan shall be submitted with the application for an excavation/fill permit and/or building permit for the approval of the city manager. A drainage control plan can be included as part of the excavation/fill permit plan and/or building permit plan.
- C. The city manager shall review the drainage control plan to determine whether or not the plan adequately addresses the control of drainage from the proposed development. The city manager may require conditions of approval on the drainage control plan with the excavation/fill permit and/or building permit in order to prevent the proposed development from adversely impacting the existing drainage control system or the surrounding properties.
- D. An approved drainage control plan must be implemented and maintained. It is the responsible of the property owner to maintain adequate drainage control on their property in a working manner.

(Ord. 1288 § 1 (part), 2001)

**15.20.050 Geologic hazard areas.**

- A. The following are geologic hazard areas requiring additional investigation and development control to which the standards of [Section 15.20.060](#) shall apply:
  - 1. Landslide areas designated as Geologically Recent Slides, Massive Ancient Slides, or Minor Slope Sloughing on map numbers 32, 33, and 34 of the 1977 RNKR/CH2MHILL Geologic Hazards Associated with Lincoln County Coastal Shorelines.
  - 2. Other locally known areas of landslide hazards based on documented evidence of past occurrences.
  - 3. Areas where development will occur on soils with slopes exceeding twenty-five (25) percent.
- B. If the geologic hazard areas are not to be disturbed or the development activities are so minor in nature that hazards are not increased beyond those prior to development, then the city manager may waive/modify the requirements for a geotechnical report required in [Section 15.20.060](#). In making this determination, the city manager may require a finding by a licensed geologist that a report is not needed.

(Ord. 1288 § 1 (part), 2001)

**15.20.060 Geologic hazard standards.**

All development within a geologic hazard area listed in [15.20.050](#) shall require a geologic report prepared by a licensed geologist, engineer, or engineering geologist having professional experience analyzing the relevant geologic hazards in accordance with generally accepted principles and practices. Structural recommendations must be stamped by a registered professional engineer. The boundaries of the study area shall be determined by the city manager. It shall include plan and sectional diagrams of the area showing property boundaries and the geographic information required below:

- A. In landslide areas in [Section 15.20.050](#) (A)(1) and [Section 15.20.050](#)(A)(2) above;
  - 1. Soils and bedrock types,
  - 2. Slope (before and after development),
  - 3. Orientation of bedding planes in relation to the dip of the surface slope,
  - 4. Soil depth,
  - 5. Other relevant soils engineering data,
  - 6. Water drainage patterns, and
  - 7. Identification of visible landslide activity in the immediate area.
- B. The geologic hazards report shall recommend development standards that will protect development on the property and surrounding properties. These should include standards for:
  - 1. Development density (when more than one use is possible or the property will be used for residential uses),
  - 2. Locations for structures and roads,
  - 3. Land grading practices, including standards for cuts and fills,
  - 4. Vegetation removal and re-vegetation practices,
  - 5. Foundation design (if special design is necessary),
  - 6. Road design (if applicable), and
  - 7. Management of storm water runoff during and after construction.
- C. The geologic hazard report shall include the following summary findings and conclusions:

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1. The type of use proposed and the adverse effects it might have on adjacent areas,
  2. Hazards to life, public and private property, and the natural environment which may be caused by the proposed use and development design,
  3. Methods for protecting the surrounding area from any adverse effects of the development,
  4. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation, and
  5. A conclusion that the proposed development is designed to minimize adverse environmental effects.
- D. The geologic hazard report is required prior to approval of building permits and all developments which require an excavation/fill permit except that a report prepared for a subdivision, planned development or partition pursuant to the requirements of this section may be used to satisfy these requirements for subsequent building and/or development permits if the original report provided recommendations on building placement and construction or land development and the report recommendations are followed.

(Ord. 1288 § 1 (part), 2001)

### **15.20.070 Violation—Penalty.**

Violation of the provisions of this chapter or an approved permit issued under this chapter shall constitute a Class A infraction. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 1288 § 1 (part), 2001)

### **15.20.080 Fees.**

Permit fees may be set by resolution of the city council.

(Ord. 1288 § 1 (part), 2001)