



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/29/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Toledo Plan Amendment
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, January 11, 2010

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Michelle Amberg, City of Toledo
Gloria Gardiner, DLCD Urban Planning Specialist

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FORM 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person electronic mailed

DATE STAMP

DEPT OF
DEC 22 2009
LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Toledo

Local file number:

Date of Adoption: October 7, 2009

Date Mailed: December 17, 2009

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? No Date:

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: Flood Hazard Protection Ordinance

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Adopt an amendment to the Flood Hazard Protection ordinance necessary to comply with the National Flood Insurance Program.

Does the Adoption differ from proposal?

No

Plan Map Changed from: NA

to: NA

Zone Map Changed from: NA

to: NA

Location: City-wide

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 003-09 (18018) [15917]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Lincoln County, Port of Toledo, DLCD, FEMA

Local Contact: Michelle Amberg, City Manager

Phone: (541) 336-2247 Extension: 211

Address: PO Box 220

Fax Number: (541) 336-3512

City: Toledo, OR

Zip: 97391

E-mail Address:

manager@cityoftoledo.org

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009

ORDINANCE NO. 1329

AN ORDINANCE AMENDING ORDINANCE NO. 1181 (CODIFIED AS CHAPTER 15.16 OF THE TOLEDO MUNICIPAL CODE), THE "FLOOD PLAIN ORDINANCE."

WHEREAS, the City of Toledo participates in the National Flood Insurance Program (NFIP) which provides flood insurance to property owners and is a program managed by the Federal Emergency Management Agency (FEMA),

WHEREAS, the City of Toledo in 1987 adopted a "Floodplain Ordinance," codified in Toledo Municipal Code Chapter 15.16, to implement part of the City of Toledo's geologic hazard policies and as a requirement for participation in the NFIP,

WHEREAS, FEMA re-evaluated the flood hazards and on February 12, 2009, provided the City of Toledo with the preliminary copies of the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM),

WHEREAS, FEMA has addressed all comments received on the preliminary copies of the FIS report and FIRM for the City of Toledo and will become effective on December 18, 2009,

WHEREAS, FEMA notified the City of Toledo by letter dated June 18, 2009, of the final flood hazard determination for Toledo in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulations,

WHEREAS, the State Floodplain Program Coordinator responsible for reviewing local municipal codes and floodplain management for compliance with the NFIP has reviewed the Toledo Municipal Code Chapter 15.16 and has identified portions of the Toledo Municipal Code Chapter 15.16 that need to be updated to maintain compliance with the NFIP,

WHEREAS, after proper public notification, the City Council reviewed the proposed ordinance on October 7, 2009, allowing for testimony and evidence to be introduced on the proposed ordinance,

NOW, THEREFORE, THE CITY OF TOLEDO AMENDS ORDINANCE NO. 1181 WHICH HAS BEEN CODIFIED AS MUNICIPAL CODE CHAPTER 15.16 AS FOLLOWS:

Section 1. The following definitions are added to Toledo Municipal Code Section 15.16.020:

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

"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).

"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 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.

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

Section 2. The definition of "Substantial Improvement" in Toledo Municipal Code Section 15.16.020 is amended to read as follows:

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

Section 3. Section 15.16.040 (Basis for establishing the areas of special flood hazard) is

amended to read as follows:

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 ordinance. 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).

Section 4. Section 15.16.110 (Administrator-Designation of the City Manager) is amended to read as follows:

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.

Section 5. Subsection E, F, G, and H are added to Section 15.16.140 to read as follows:

- 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.

Section 6. Subsection 15.16.160(A)(1) is amended to read as follows:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation.

Section 7. Subsection 15.16.160(C) is amended to read as follows:

- 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 (1) 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 (1) 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 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Section 8. Subsection 15.16.160(D)(1) is amended to read as follows:

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,

Section 9. Section 15.16.180 is added to read as follows:

15.16.180 Before Regulatory Floodway

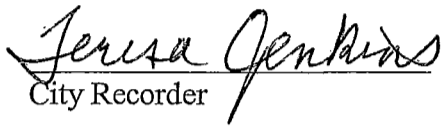
In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when 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.

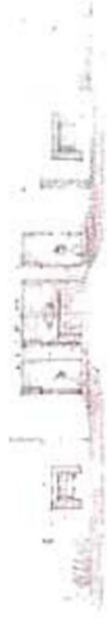
PASSED AND ADOPTED by the City Council of the City of Toledo, Lincoln County, Oregon,
on the 13th day of October, 2009.

ATTEST:

APPROVED:


City Recorder


Mayor



CITY OF TOLEDO
City Hall - 206 N. Main Street
P.O. Box 220, Toledo, Oregon 97391

TO:

ATTN: PLAN AMENDMENT SPECIALIST
DEPT OF LAND CONSERVATION AND
DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540