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## CHAPTER 15.20. GREATER PORTUGUESE BEND LANDSLIDE COMPLEX REGULATIONS ON LAND USE PERMITS<sup>1</sup>

### 15.20.010. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Director* means the director of community development.

*Geologic investigation permit* means a permit issued by the city to allow field research for the preparation of geologic, geotechnical or soils reports. Field research shall include investigative trenching, boring or grading which is performed mechanically or by hand. Such trenching, boring or grading shall pertain only to the accumulation of necessary data.

*Maintenance* means to keep in a particular safe condition.

*Plumbing fixture* means a plumbing fixture as defined by the uniform plumbing code, unless expressly defined otherwise in this chapter.

*Repair* means to bring back to a safe condition after partial decay or destruction.

*Replacement* means to exchange a damaged portion for a new equivalent portion without changing form or function. For a dwelling unit it means to construct a new portion of a dwelling to substitute for that existing prior to damage.

*Restoration* means to bring back to the condition and general location as it was on December 1, 2022 before land movement accelerated due to the heavy precipitation associated with atmospheric river storms. Restoration does not include replacing a damaged or lost portion of the residence for construction of a new equivalent portion.

*Served by a sanitary sewer system* means that an operational sanitary sewer system is located within the boundaries of the subject lot or parcel or is located within a thoroughfare or right-of-way that is immediately adjacent to the lot or parcel and is no more than 200 feet from the boundary of the lot or parcel.

(Code 1981, § 15.20.010; Ord. No. 309, § 4(part), 1995; Ord. No. 357, § 5(part), 2000)

### 15.20.020. New construction permits not issued.

Notwithstanding any other ordinance or code of the city, the city hereby prohibits the filing, processing, approval or issuance of building, grading or other permits, environmental assessments, environmental impact reports, conditional use permits, tentative maps or parcel maps in the area of the city identified as the "Greater Portuguese Bend Landslide" as outlined on the landslide prohibition map, as the same may be revised from time-to-time by City Council, on file in the office of the director, unless expressly allowed by section 15.20.040 (Exceptions) of this chapter.

(Code 1981, § 15.20.020; Ord. No. 309, § 4(part), 1995)

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<sup>1</sup>**Prior ordinance history**—Ordinance Nos. 1 108U, 118U, 120U, 123U, 128U, 130U, 131U, 139U, 140U, 143U, 148U, 155U, 208, 223, 247, 249U and 276.

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### **15.20.030. Revocation of unused permits.**

Any building, grading permit or other permit for new construction in the Greater Portuguese Bend Landslide which has been previously granted by the city but which has not been acted upon in substantial reliance by the holder thereof is revoked.

(Code 1981, § 15.20.030; Ord. No. 309, § 4(part), 1995)

### **15.20.040. Exceptions.**

The exercise of any of the following exceptions shall be subject to recording of a notice that the property is subject to the restrictions and exceptions set forth in this Chapter. The prohibitions set forth in Section 15.20.020 shall not apply to any of the following:

- A. Maintenance of existing structures or facilities which do not increase the land coverage of those facilities or add to the water usage of those facilities;
- B. Replacement, repair, or restoration of a residential building or structure which has been damaged or destroyed due to one of the following hazards, provided that a Landslide Exception Permit is approved by the director, and provided that the project complies with the criteria set forth in section 15.20.050 (Landslide mitigation measures required) of this chapter and 17.84.060 (Non-conforming buildings or other structures):
  - 1. *A geologic hazard.* Such structure may be replaced, repaired or restored to original condition; provided, that such construction shall be limited to the same square footage, height, setbacks, and footprint and in the same general location on the property and such construction will not aggravate any hazardous geologic condition, if a hazardous geologic condition remains. Prior to the approval of a Landslide Exception Permit, the applicant shall submit to the director any geological or geotechnical studies reasonably required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed project will not aggravate the existing situation, including the required findings made in accordance with RPVMC 15.18.090 Section 107.A.3. The applicant shall comply with any requirements imposed by the city's geotechnical staff and shall substantially repair the geologic condition to the satisfaction of the city geotechnical staff prior to the issuance of a final building permit. This exception is not subject to RPVMC 15.18.100, 111A.2 (Hazard Elimination).
  - 2. *A hazard other than a geologic hazard.* Such structure may be replaced, repaired or restored to original condition, provided that such construction shall be limited to the same square footage, height, setbacks, and footprint and in the same general location on the property and such construction will not aggravate any hazardous condition if a hazardous condition remains. Prior to the approval of a Landslide Exception Permit, the applicant shall submit to the director any geological or geotechnical studies reasonably required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed project will not aggravate the existing situation.
- C. Building permits for existing structures which were constructed prior to October 5, 1978, for which permits were not previously granted, in order to legalize such structures. Such permits may only be granted if the structure is brought into substantial compliance with the California Building Code;
- D. The approval of an environmental assessment or environmental impact report for a project as to which the city is the project applicant;
- E. Projects that are to be performed or constructed by the city or Geologic Hazard Abatement Districts or other governmental or quasi-governmental agency to mitigate the potential for landslide or to otherwise enhance public safety;

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- F. Pursuant to section 17.76.040(B)(3) of this Code, remedial grading to enhance soil stability and reduce geotechnical hazards due to natural land movement or the presence of natural hazards, or to otherwise materially improve public safety.;
- G. Geologic investigation permits. Prior to the approval of such a permit, the applicant shall submit to the director any geological or geotechnical studies reasonably required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed investigation will not aggravate the existing situation;
- I. Construction or installation of temporary minor nonresidential structures which are no more than 320 square feet in size, with no plumbing fixtures and which do not increase water use, may be approved by the director. All permits shall include a requirement that a use restriction covenant, in a form acceptable to the city which prevents the structure from being used for any purpose other than a non-habitable use, is recorded with the county registrar-recorder. A minor nonresidential structure is defined as temporary if the building code does not require it to be erected upon or attached to a fixed, permanent foundation and if, in fact, it will not be erected upon or attached to such a foundation. Prior to approval of the application, the applicant shall submit to the director any geological or geotechnical studies reasonably required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed project will not aggravate the existing situation; J. Submittal of a lot-line adjustment pursuant to 16.08 or reversion to acreage or merger of lots pursuant to 16.32;
- M. Submittal of applications for discretionary planning permits for uses which are ancillary to the primary use of the lot or parcel, where there is no possibility of any adverse impact upon soil stability. This is limited to special use permits for minor, temporary uses and events;; permits for the keeping of large domestic animals and exotic animals; conditional use permits for the establishment of a use at or on an existing structure where no structural modifications are required;
- N. Fence, wall, and hedge permits that do not involve grading or the construction of retaining walls, Prior to the approval of a Landslide Exception Permit, the applicant shall submit to the director any geological or geotechnical studies reasonably required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed project will have no potential for adverse impacts on landslide conditions;
- O. Permits issued pursuant to section 15.20.110 (Required connection to operational sanitary sewer system) of this chapter to connect existing structures with functional plumbing fixtures to an operational sewer system;
- Q. Non-remedial grading, pursuant to a minor grading permit per 17.76.040, up to a cumulative maximum total of 50 cubic yards of grading per legal lot, on lots developed with a residential structure or other lawfully existing non-residential structure, provided that the grading is balanced on site with no imported material and provided the appropriate geological or geotechnical studies are submitted to demonstrate to the satisfaction of the city's geotechnical staff that the proposed grading will not aggravate the existing landslide situation.
- R. The construction of a barn or other similar non-habitable structure used for the sole purpose of housing animals on lots that are currently legally developed with a residential structure. Said non-habitable structures shall not exceed a maximum roofed area of 1,600 square feet, subject to the limitations set forth in 15.20.040(Q) exception for non-remedial grading. A use restriction covenant, in a form acceptable to the city attorney, which prevents the structure from being used for any purpose other than a non-habitable use for animal keeping, shall be recorded with the county registrar-recorder against the title to said property. Said non-habitable structures shall be constructed and maintained so that the structures, and all interior spaces of said structures, are not fully enclosed and at least one wall along one exterior facade is open to the air at all times. Prior to approval of a Landslide Exception

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Permit, the applicant shall submit to the director any geological or geotechnical studies reasonably required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed non-habitable structure will not aggravate the existing situation;

- S. Repair, replace or restore existing non-habitable storage structure used for the sole purpose of storing agricultural farming equipment on lots that have obtained a conditional use permit for the growing of crops and/or fruits on more than one acre for commercial or noncommercial purposes. Said repair, replacement, or restoration of non-habitable structure is subject to the limitations set forth in 15.20.040(Q) exception for non-remedial grading . A covenant which prevents the structure from being used for any purpose other than a non-habitable use for storing agricultural farming equipment, in a form approved by the city attorney and enforceable by the city, shall be recorded with the county registrar-recorder against the title to said property, prior to building permit issuance. Said structures shall be constructed and maintained as non-habitable structures and shall be removed if an approved conditional use permit ceases and a commercial or noncommercial agricultural use no longer remains on said property. Prior to approval of a Landslide Exception Permit, the applicant shall submit to the director any geological or geotechnical studies required by the city to demonstrate to the satisfaction of the city geotechnical staff that the proposed non-habitable structure will not aggravate the existing situation;
- T. The construction of residential buildings, accessory structures, and grading totaling less than 1,000 cubic yards of combined cut and fill, and including no more than 50 cubic yards of imported fill material on the property at Assessor ID 7572-012-024 in Zone 1 of the landslide moratorium area as outlined in yellow on the landslide moratorium map on file in the director's office; provided, that a landslide moratorium exception permit is approved by the director, and provided that the project complies with the criteria set forth in section 15.20.050 (Landslide mitigation measures required) of this chapter. Residential buildings and accessory structures, excluding the square footage of non-habitable accessory structures permitted through subsections I and S of this section, shall not exceed a maximum combined total of up to 8,000 square feet (habitable and non-habitable area), including garages and shall be limited to a maximum of 25 percent lot coverage with proper setbacks from adjacent properties as determined through the neighborhood compatibility analysis pursuant to section 17.02.030(B) and the city's neighborhood compatibility handbook. A main residence shall not exceed two stories and shall not exceed a maximum height of 26 feet, through the approval of a height variation permit, pursuant to section 17.02.040 (View preservation and restoration) for any portion of the structure exceeding 16 feet in height and as defined by the zoning code for pad lots. No pool or water feature may be permitted incidental to the primary residential use. Horse keeping is permitted up to a maximum of four horses per lot. Such projects shall qualify for a Landslide Exception Permit only if all applicable requirements of this code are satisfied, and the parcel is served by a sanitary sewer system. Those who take advantage of this exception category shall, prior to development, record a covenant on the subject property in a form approved by the city attorney running with the land and enforceable by the city:
  - (i) Prohibiting future subdivision of said property;
  - (ii) Acknowledging that the city makes no representation as to the suitability of the land for development and assuming risk.

(Code 1981, § 15.20.040; Ord. No. 309, § 4(part), 1995; Ord. No. 357, § 5(part), 2000; Ord. No. 382U, § 5, 2002; Ord. No. 383, § 5, 2002; Ord. No. 407, § 6, 2004; Ord. No. 459U, §§ 2, 3, 2007; Ord. No. 462, § 7, 2007; Ord. No. 474, § 23, 2008; Ord. No. 498, § 6, 9-15-2009; Ord. No. 501U, § 6, 12-15-2009; Ord. No. 502, § 6, 1-5-2010; Ord. No. 526, §§ 2—4, 10-18-2011; Ord. No. 552, § 1, 12-3-2013; Ord. No. 573, § 6, 8-4-2015; Ord. No. 576, § 6, 12-15-2015; Ord. No. 577, § 5, 2-2-2016; Ord. No. N. 585U, §§ 2—5, 7-19-2016; Ord. No. 586, §§ 2—5, 8-2-2016; Ord. No. 597, § 4, 8-15-2017; Ord. No. 610, § 3, 10-16-2018; Ord. No. 631, § 6, 12-3-2019; Ord. No. 633, § 2, 4-7-2020; Ord. No. 671, § 2, 5-16-2023)

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### **15.20.050. Landslide protection measures required.**

Within the Greater Portuguese Bend Landslide as identified in section 15.20.020 (New construction permits not issued) of this chapter, the city shall require that appropriate landslide abatement measures be implemented as conditions of issuance of any permit issued pursuant to this chapter. With respect to proposed projects and uses requiring a Landslide -Exception Permit pursuant to section 15.20.040 and 15.20.060 which must satisfy all of the criteria set forth in this section, the conditions imposed by the city shall include, but not be limited to, the following:

- A. If lot drainage deficiencies are identified by the director of public works, all such deficiencies shall be corrected by the applicant.
- B.
- C. Roof runoff from all buildings and structures on the site shall be contained and directed to the streets or an approved drainage course.
- D. If required by the city geotechnical staff, the applicant shall submit a soils report, and/or a geotechnical report, for the review and approval of the city geotechnical staff.
- E. If the lot or parcel is not served by a sanitary sewer system, the applicant shall submit for recordation a covenant agreeing to support and participate in existing or future sewer and/or storm drain assessment districts and any other geological and geotechnical hazard abatement measures required by the city. Such covenant shall be submitted to the director prior to the issuance of a building permit.
- F. If the lot or parcel is not served by a sanitary sewer system, the applicant shall submit for recordation a covenant agreeing to an irrevocable offer to dedicate to the city a sewer and storm drain easement on the subject property, as well as any other easement required by the city to mitigate landslide conditions. Such covenant shall be submitted to the director prior to the issuance of a building permit.
- G. A hold harmless agreement satisfactory to the city attorney promising to defend, indemnify and hold the city harmless from any claims or damages resulting from the requested project. Such agreement shall be submitted to the director prior to the issuance of a building permit. A release of any and all claims against the City resulting from the City's approval of the requested project, satisfactory to the city attorney.
- H. The applicant shall submit for recordation a covenant agreeing to construct the project strictly in accordance with the approved plans; and agreeing to prohibit further projects on the subject site without first filing an application with the director pursuant to the terms of this chapter. Such covenant shall be submitted to the director for recordation prior to the issuance of a building permit.
- I. All landscaping irrigation systems shall be part of a water management system approved by the director of public works. Irrigation for landscaping shall be permitted only as necessary to maintain the yard and garden. Yards and gardens shall be developed with minimal watering requirements and utilize efficient and water-conserving irrigation methods to prevent water entering the ground that may exacerbate land movement.
- J. If the lot or parcel is served by a sanitary sewer system, the sewer lateral that serves the applicant's property shall be inspected to verify that there are no cracks, breaks or leaks and, if such deficiencies are present, the sewer lateral shall be repaired or reconstructed to eliminate them, prior to the issuance of a building permit for the project that is being approved pursuant to the issuance of the Landslide Exception Permit.
- K. All other necessary permits and approvals required pursuant to this code or any other applicable statute, law or ordinance shall be obtained.

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(Code 1981, § 15.20.050; Ord. No. 309, § 4(part), 1995; Ord. No. 357, § 5(part), 2000; Ord. No. 459U, § 4, 2007; Ord. No. 498, § 7, 9-15-2009; Ord. No. 526, § 5, 10-18-2011; Ord. No. 577, § 6, 2-2-2016; Ord. No. 597, § 5, 8-15-2017)

### **15.20.060. Application.**

- A. Applicants for an exception to this chapter under section 15.20.040(B), (N), (Q), (R), (S), and (T) shall file an application for a Landslide Exception Permit with the director. The application shall be signed by the property owner, and shall include the following:
  - 1. A letter, signed by the property owner, setting forth the reason for request, as well as a full description of the project;
  - 2. Copies of a site plan, showing accurate lot dimensions; the location, dimensions, and heights of all existing and proposed structures; the location of the existing and proposed septic systems and/or holding tank systems; and the location of the existing and/or proposed sanitary sewer system, if the site is or will be served by a sanitary sewer system. The number of copies required shall be determined by the director;
  - 3. Information satisfactory to the city's geotechnical staff (including, but not limited to, geological, geotechnical, soils or other reports) reasonably required by the city to demonstrate that the proposed project will not aggravate the existing situation;
  - 4. A fee as established by resolution of the city council;
  - 5. If grading is proposed, a grading and drainage plan showing the topography of the lot and all areas of project cut and fill, including a breakdown of the earthwork quantities, and proper disposition of site drainage in the proposed grading area.
- B. A Landslide Exception Permit application shall become null and void if, after submitting the required application to the director, the application is administratively withdrawn by the director because the application is allowed to remain incomplete by the applicant for a period which exceeds 180 days, or if the application is withdrawn by the applicant.

(Code 1981, § 15.20.060; Ord. No. 309, § 4(part), 1995; Ord. No. 357, § 5(part), 2000; Ord. No. 498, § 8, 9-15-2009; Ord. No. 552, § 2, 12-3-2013; Ord. No. 577, § 7, 2-2-2016; Ord. No. 597, § 6, 8-15-2017)

### **15.20.070. Appeals.**

Any interested person may appeal any decision or any condition imposed by the director to the city council by filing a written request, together with an appeal fee as established by resolution of the city council, with the city within 15 days after the decision is made.

(Code 1981, § 15.20.070; Ord. No. 309, § 4(part), 1995)

### **15.20.080. Expiration.**

A Landslide Exception Permit shall become null and void after 180 days from the date of issuance unless the planning applications necessary for the proposed project have been submitted to the director. The director may grant extensions beyond these periods for good cause.

(Code 1981, § 15.20.080; Ord. No. 309, § 4(part), 1995)

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## **15.20.090. Municipal code and environmental regulations.**

The building code, as amended, and existing plan checking procedures are adequate and appropriate to allow and regulate maintenance, repair, restoration, and replacement as defined in this chapter. The administrative code, including sections 309 through 319 as added by section 15.18.110 (Administrative code amended—Conduct of construction and landscaping activities), applies, and permits are required. Nothing contained in this chapter shall except the proposed construction or use from any requirement or regulation of the building code, zoning ordinance or other ordinance of this code or the California Environmental Quality Act (Public Resources Code § 20000 et seq.).

(Code 1981, § 15.20.090; Ord. No. 309, § 4(part), 1995)

## **15.20.100. Exclusions.**

For a parcel of land to be excluded from the landslide moratorium area, a landowner, or their designated agent, may apply for such exclusion to the city council.

- A. *Application.* To obtain an exclusion from this chapter, an applicant shall file an application for exclusion with the director and signed by the property owner. An application shall not be deemed complete until all required geology studies have been completed and review has been completed by the city geotechnical staff. An application shall include the following:
  - 1. The reason for the request;
  - 2. A legal description of the property and a map of the property;
  - 3. All anticipated development applications;
  - 4. Any existing geological or geotechnical reports or necessary geology studies as determined by the city geotechnical staff;
  - 5. A fee as established by the city council;
  - 6. Any additional information as determined by the director or the city geotechnical staff;
  - 7. A completed environmental assessment.
- B. *Public hearing.* Notice shall be published in a newspaper of general circulation in the community not less than 15 days before the date set for the city council hearings. The notice shall contain all data pertinent to the hearing. Written notice shall also be mailed not less than 15 days before the date set for the city council hearing to owners of property shown on the last equalized assessment roll as owning real property within 500 feet of the boundaries of the subject property.
- C. *Findings.* Upon approval of a landslide moratorium exclusion, the city council shall find as follows:
  - 1. The exclusion is consistent with the general plan and any applicable specific plan of the city, including, but not limited to, the coastal specific plan of the city;
  - 2. The exclusion promotes the health, safety and welfare of the community;
  - 3. The exclusion shall not aggravate any existing geologic conditions in the area.
- D. *Conditions on issuance of approval.* In granting any exclusion under this chapter, the city council may impose such conditions as may be reasonably necessary to preserve the intent of the goals and policies of the general plan and the provisions of this Code, which conditions shall include, but are not limited to, recording a covenant against the property documenting the nature and scope of any significant remedial grading, which is defined as excavation, fill or any combination thereof, which involves the redistribution of earth materials for the purpose of reestablishing the stability and continuity of said area, and which involves:

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- (1) Excavation, fill or any combination thereof in excess of 1,000 cubic yards within any two-year period; or
- (2) Excavation ten feet or more below preconstruction grade or fill ten feet or more above preconstruction grade.

(Code 1981, § 15.20.100; Ord. No. 309, § 4(part), 1995; Ord. No. 416, § 4, 2005)

**15.20.110. Required connection to operational sanitary sewer system.**

Any owner of a lot or parcel within the Greater Portuguese Bend Landslide , as outlined on the landslide prohibition map, as the same may be revised from time-to-time, on file in the office of the director, which is developed with a residential structure or any other structure that contains one or more operational plumbing fixtures and is served by a sanitary sewer system, as defined in this chapter, shall connect such structure to the sanitary sewer system. The director of public works shall determine whether a lot or parcel is served by a sanitary sewer system, whether a structure contains one or more operational plumbing fixtures, or whether the connection to the sewer system is performed properly, including, without limitation, removal, or the discontinuation of the use, of any existing septic system.

(Code 1981, § 15.20.110; Ord. No. 357, § 5(part), 2000; Ord. No. 498, § 9, 9-15-2009; Ord. No. 577, § 8, 2-2-2016)

(Code 1981, § 15.20.120; Ord. No. 517, § 1, 1-18-2011; Ord. No. 521, § 1, 5-3-2011)