

IN THE CITY COUNCIL
FOR THE CITY OF HOOD RIVER, OREGON

ORDINANCE NO. 2054

An Ordinance amending Hood River Municipal Code Title 15 (Buildings and Construction) Chapter 15.04 Building Code and Chapter 15.20 Television and Radio Towers

The Hood River City Council finds as follows:

WHEREAS, the City of Hood River is organized to employ and operate a building department to enhance public safety through codes.

WHEREAS, the building department administers state and local building codes related to structural and mechanical scope. The building department administers and enforces State of Oregon building codes and local codes deriving from Title 15 Hood River Municipal Code.

WHEREAS, The 2014 Oregon Structural Specialty Code was the existing code cycle adopted across the state.

WHEREAS, the State of Oregon recently adopted a new code cycle to be adopted by state jurisdictions and effective January 1, 2020. The State transitioned from the 2014 Oregon Structural Specialty Code to the 2019 Oregon Structural Specialty Code.

WHEREAS, the newly adopted State Code creates change in scope that require permits or are exempt in 2019 Oregon Structural Specialty Code Chapter 1 Administration Sections 105.3 through 105.6.

WHEREAS, the newly adopted state code gives local municipalities options to specifically amend these requirements under the authority of ORS 455.020 to adopt local permits.

WHEREAS, the City of Hood River has coordinated with multiple Building Departments and Building Officials across the state to create consistency in the administration of local and state building permits as a result of the newly adopted code cycle and options given to municipalities to make amendments.

WHEREAS, the City of Hood River Building Department recommends amendments to Title 15 of the Hood River Municipal Code the adoption of the 2019 Oregon Structural Specialty Code. Changes are primarily driven by the elimination of provisions from state adopted building codes with references that allow local adoption of those provisions. Additional changes are recommended to provide cleanup of outdated code provisions.

WHEREAS, the Hood River City Council heard the Building Department recommendation on December 9, 2019 and (*pending action -authorized staff to prepare an amendment ordinance*);

WHEREAS, amendment ordinance has been drafted and posted to the citizens of Hood River on January 17, 2020. Amendments to HRMC Title 15 as set forth in Exhibit A and B.

NOW, THEREFORE, based on the foregoing findings, which are incorporated herein by this reference, the Hood River City Council Ordains as follows:

Section 1 – Amendment. Title 15 (Buildings and Construction) Chapter 15.04 Building Code shall be amended, attached hereto and incorporated herein by this reference.

Section 2 – Amendment. Title 15 (Buildings and Construction) Chapter 15.20 Television and Radio Towers shall be repealed entirely. These provisions were adopted in 1953 to regulate the installation of radio and television antennas and updated in 1996 only to point to current city fee schedules. Many of the provisions are very outdated including requirements for electrical inspection, which the City does not have authority for under state regulations. Current land use and building codes provide appropriate regulation of towers and antennas. Attached hereto and incorporated herein by this reference.

Read for the First Time this (Date to be determined).

Read for the Second Time and approved this ___ day of (date to be determined) 2020.

This Ordinance shall take effect on the 31st day following the second reading.

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Kate McBride, Mayor

ATTEST:

Approved as to form:

Jennifer Gray, City Recorder

Daniel Kearns, City Attorney

Exhibit A

Strikes and Underlines of existing HRMC 15.04:

CHAPTER 15.04 – BUILDING CODE*

* For statutory provisions on the State Building Code, see ORS ~~456.750~~ [455.010](#) et seq.

Legislative History: Ord. 1364 (1974); Ord. 1444 (1979); Ord. 1531 (1983); Ord. 1632 (1990); Ord. 1748 (1998); Ord. 1990 (2010)

SECTIONS:

- 15.04.010 Compliance With State Law
- [15.04.015 Local Permits](#)
- 15.04.020 Administration of Program
- [15.04.025 Right of Entry](#)
- 15.04.030 ~~Boundaries of Fire Zones~~ [Service Utilities](#)
- 15.04.040 ~~Agricultural Buildings~~ [Demolition and Damaged Buildings](#)
- 15.04.050 Excavation and Grading
- [15.04.055 Patio Covers](#)
- 15.04.060 Interpretation of Provisions
- 15.04.070 Unsafe ~~Buildings~~ [Structures and Equipment](#)
- 15.04.080 ~~Board of~~ Appeals
- 15.04.085 Heat Pumps and Mechanical Devices
- 15.04.090 Violations; Penalties; Remedies
- 15.04.100 Building Official: Authority to Impose Administrative Civil Penalty
- 15.04.110 Appeal Procedures
- 15.04.120 Unpaid Penalties
- 15.04.130 Notice of Violations and Stop Work Orders

15.04.010 Compliance with State Law. In addition to compliance with this chapter and other ordinances of the city, building and related activities shall comply with provisions of each of the specialty codes making up the State Building Code adopted by the [Administrator of the Building Codes Division, Department of Consumer and Business Services](#) ~~director of the state Department of Commerce~~ and the [Oregon Fire Fire and Safety](#) Code adopted by the state Fire Marshal as those codes now are and all subsequent amendments and additions thereto. No person shall conduct building or related activities without compliance with these codes within the city. (Ord. 1444, 1979; Ord. 1364, 1974)

15.04.015 City Permits. In addition to permits regulated by the state Building Code, the City requires permits and approvals for the following items not regulated by the state Building Code. No person shall conduct building or related activities without compliance prior to submitting a permit application to the Building Official and receiving approval.

A. Fences in excess of 7'

B. Retaining walls that support a surcharge or are intended to impound Class I, II, or IIIA liquids.

C. Tanks not otherwise regulated by adopted codes that connect to building systems, support commercial or industrial processes.

D. Cellular phone/radio/television and similar towers supported by a regulated structure or in excess of 20' in height measured from grade to the top of the tower.

E. Flagpoles and exterior light poles in excess of 20' in height measured from grade to the top of the pole.

F. Freestanding signs in excess of 4' in height measured from grade to the top of the sign.

G. Equipment shelters associated with commercial or industrial facilities or supporting communication facilities.

H. Demolition of a structure

City permits required under this chapter shall be processed in a similar manner as other permits required by the state Building Code. Fees for local permits shall be based on valuation using the currently adopted fee schedule for building permits.

15.04.020 Administration of Program. The city shall provide for the administration of a plan checking, building permit and inspection program for structural and mechanical work, but not for plumbing and electrical work.

A. The city program is applicable to public buildings including state building, as well as private building. (Ord. 1364, 1974)

15.04.025 Right of Entry. Where it is necessary to make an inspection to enforce the provisions of adopted codes, or where the Building Official has reasonable cause to believe that there exists in a structure or upon a premises a condition that is contrary to or in violation of this code that makes the structure or premises unsafe, dangerous or hazardous, the Building Official or his authorized representative is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by adopted codes, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

15.04.030 Service Utilities. Section 112 entitled "Service Utilities" of the Oregon Structural Specialty Code is adopted and shall regulate the connection and disconnection of service utilities as deemed appropriate by the Building Official.

~~15.04.030 — Boundaries of Fire Zones. In accordance with the provisions of the State Building Code for recognition of local fire zones and in particular, Section 1601 of the Structural Specialty Code, the city is by Ordinance No. 1344 (76) adopted January 28, 1974, divided into fire zones nos. 1, 2 and 3, with each such zone to have the boundaries as set forth in such ordinance and which by reference is also made a part of this chapter. (Ord. 1364, 1974)~~

15.04.040 Demolition and Damaged Buildings. A permit is required for demolition of any structure, even if the structure did not require a permit to construct. Partial demolition of a structure for additions, remodels or other alterations will be processed through the building permit procedures as an alteration to the structure. The Building Official can waive the requirement for permit for work of a very minor nature when it is determined that no utilities will be affected, there is no danger to the public, and no other department review is required. Prior to the issuance of a demolition permit, the Building Official shall receive approval from other departments and agencies regarding land use, utilities, and other associated aspects for the structure.

Demolition work shall comply with approved plans and conditions issued upon the permit as well as the following standards:

A. It is unlawful for an owner or person in charge of a building being demolished or which has been damaged by fire, wind, flood, earthquake, neglect or similar event to leave a portion that is liable to collapse or is a danger to the life, health, property or safety of the public:

1. Unsupported for more than one hour; or

2. Unsupported for more than 24 hours, during which time suitable barricades must prevent access to the building.

- B. Structural supports for a building being demolished or which has been damaged by fire wind, flood, earthquake, neglect or similar event must be designed by a structural engineer registered with the state and hired by the owner or person in charge. All such designs, calculations, drawings and inspection reports must be approved by the Building Official before implementation.
- C. The demolition of buildings must occur in a safe manner and consistent with the terms of a demolition permit issued by the city. Adjoining streets and sidewalks may not be littered with solid waste and must be wetted down, if necessary, to maintain cleanliness. During demolition work, all receptacles, drop boxes, shafts or piping used in such demolition work must be covered in an appropriate manner.
- D. During removal of a building:
 - 1. A foundation that is not intended for use in new construction must be removed and all excavations filled to
 - 2. level with the adjoining grade with approved structural fill material; and
 - 3. Plans for foundation intended for use in new construction must be submitted to the city and the foundation approved for such use. Upon completion of demolition work, the remaining foundations must be barricaded by a fence at least eight feet high until the new construction has progressed sufficiently to negate hazards to the public.
- E. Demolition Debris. An owner or person in charge must remove all solid waste from the premises upon which demolition is carried out within seven days from completion of the demolition or a stoppage, if work remains uncompleted, unless the city extends the time in writing due to weather, terrain or other circumstances deemed appropriate.

~~15.04.040 — Agricultural Buildings. Chapter 15 entitled "Agricultural Buildings" of the appendix to the 1976 edition of the Uniform Building Code copyrighted by the International Conference of Building Officials and all amendments and additions thereto shall be in effect in the city. (Ord. 1444, 1979; Ord. 1364, 1974)~~

~~15.04.050 Excavation and Grading. Appendix Chapter J, entitled "Grading" of the Oregon Structural Specialty Code is adopted and shall regulate grading, excavation and earthwork construction on private property. Chapter 70, entitled "Excavation and Grading" of the appendix to the current edition of the Uniform Building Code copyrighted by the International Conference of Building Officials, together with all amendments and additions thereto, shall be in effect in the city. (Ord. 1632, 1990; Ord. 1444, 1979; Ord. 1364, 1974)~~

~~15.04.055 Patio Covers. Appendix Chapter I, entitled "Patio Covers" of the Oregon Structural Specialty Code is adopted and shall regulate construction of regulated patio covers on private property.~~

~~15.04.060 Interpretation of Provisions. In addition to the provisions of Section 106 of the Structural Specialty Code and similar provisions of other specialty codes, the Building Official may approve a material or method of construction not specifically prescribed by this chapter provided he 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 emergency conservation, and the Administrator Director of the Building Codes Division, Department of Consumer and Business Services 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 Building Codes Division or the City Manager city board of appeals as provided in Section 204(a) of Structural Specialty Code, and A person affected by ruling of the Building Official may appeal such ruling through the appeals process as outlined in this chapter to the board of appeals within thirty days of the date of ruling. The provisions of this section shall not be interpreted to preclude a person from requesting a ruling from the Administrator Director of the Building Codes Division Department of Commerce prior to the submitting of an application to the city for permit, or after withdrawing previously submitted application. (Ord. 1364, 1974)~~

~~15.04.70 Unsafe Buildings Structures and Equipment.~~

Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or that constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures and equipment shall be taken down and removed or made safe, as the Building Official or his authorized representative deems necessary and as provided for in this section. A vacant structure deemed unsafe shall be secured against entry.

When the Building Official or the Building Official's authorized representative has inspected, caused to be inspected, or received a sufficient amount of verifiable information about any building and has found and determined that such building or structure is unsafe, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

- A. Notice and Order: The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:
1. The street address and a legal description sufficient for identification of the premises upon which the structure or equipment is located.
 2. A statement that the Building Official has found the structure or equipment to be dangerous with a brief and concise description of the conditions found to render it unsafe under the provisions of this chapter.
 3. A statement of the action required to be taken as determined by the Building Official;
 - a. If the Building Official has determined that the structure or equipment must be **repaired**, the order shall require that all required permits must be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - b. If the Building Official has determined that the structure or equipment must be **vacated**, the order shall require that it shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - c. If the Building Official has determined that the equipment or structure must be **demolished**, the order shall require that it be vacated within such time as the Building Official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the Building Official shall determine is reasonable.
 4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official;
 - a. Will order the structure or equipment be vacated and posted to prevent further occupancy until the work is completed, and
 - b. May proceed to cause the work to be done and charge the costs thereof against the property or its owner.
 5. Statements advising
 - a. that any person having any record title or legal interest in the equipment or structure may appeal from the notice and order or any action of the Building Official to the City Manager, provided the appeal is made in writing as provided in this chapter and filed with the Building Official within 30 days from the date of service of such notice and order; and
 - b. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

B. Service of Notice and Order; The notice and order and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or disclosed from official public records: The holder of any mortgage, or deed of trust or other legal interest holder; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official or city code enforcement to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

C. Method of Service; Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the Building Official. If no address of any such person so appears or is known to the Building

Official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

D. Permitted Work; Where the structure or equipment determined to be unsafe by the Building Official is restored to a safe condition, to the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions and change of occupancy shall comply with this chapter as well as State Law as noted in 15.04.010.

1. The provisions of Section 8.08 shall govern abatement of unsafe structures which shall be abated as nuisances. The law referred to in Section 203 of the Structural Specialty Code is the ordinance of the city providing for the abatement of public nuisances. (Ord. 1364, 1974)

15.04.080 Appeals. Any person aggrieved of a decision of the Building Official in the administration of assigned duties may appeal that decision. Appeals of technical code matters for codes regulated by the state Building Code shall be appealed to the appropriate State Board as outlined in ORS. Appeals of administrative provisions of state adopted Building Code and appeals of city adopted code provisions may be appealed to the City Manager as outlined in Section 15.04.080. Appeals through either process shall have no authority to deliberate and make determinations on City Manager requirements or conditions of approval.

~~15.04.080 Board of Appeals. For application in the city, Subsection A of Section 204 of the Structural Specialty Code in subsection A of Section 203 of the Mechanical Specialty Code are replaced with the following:~~

~~"In order to determine the suitability of alternate materials and methods of construction and provide for reasonable interpretation of the provisions of standards applicable to buildings and related activities administered through this City there is created a Board of Appeals consisting of five (5) 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 non voting member and shall act as Secretary of the Board. The Board of Appeals shall be appointed by the 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 finding in writing to the building official with a duplicate copy to the appellate. The administrator of the State Building Code Division shall be furnished a copy of decisions interpreting State Building Code requirements." (Ord. 1364, 1974)~~

15.04.085 Heat Pumps and Mechanical Devices. The following standards shall govern the issuance of permits and noise levels of heat pump and other mechanical installations:

A. Existing Heat Pumps and Mechanical Devices. No person owning or controlling an existing commercial or residential heat pump or mechanical device shall cause or permit operation of that noise source if the noise levels generated by the heat pump or mechanical device exceed fifty decibels as measured within twenty-five feet of the nearest residential structure on an adjacent parcel of land.

B. New Heat Pump and Mechanical Installations. Effective upon adoption of the ordinance codified in this section, no person shall install, or operate, a commercial or residential heat pump or mechanical device if noise levels from its operation exceed forty-five decibels within twenty-five feet of the nearest residential structure on an adjacent parcel of land, or within twenty-five feet of the property line of any adjacent unoccupied parcel of land zoned for residential use.

C. Permit Requirement. No person shall install a commercial or residential heat pump or mechanical device prior to submitting a permit application to the Building Official and receiving approval. All applications shall certify that the operation of the heat pump or mechanical device will meet the provisions of Section 2 using the Air Conditioning and Refrigeration Institute Standards for Application for Sound Rated Outdoor Unitary Equipment (Standard 275).

D. Enforcement Responsibility. It shall be the responsibility of the Building Official to assure all provisions of this section are met prior to issuing an installation permit for a heat pump or mechanical device.

E. Variances. Where practical difficulties, unnecessary hardships, or results inconsistent with the provisions of this section exist, a variance not to exceed five percent of the maximum noise levels permitted herein may be granted by the Building Official. Any person dissatisfied with the decision of the Building Official may appeal such decision in

writing to the city council within ten days of such decision. The ~~city council~~ [City Manager](#) may grant a variance to the extent that the ~~council~~ [City Manager](#) finds the variance to be consistent with the terms of this section. (Ord. 1531, 1983)

15.04.090 Violation; Penalties; Remedies.

- A. No person, firm, corporation or other entity however organized shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain a building or structure in the City, or cause the same to be done, contrary to, or in violation of, this chapter. (Ord. 1990)
- B. All violations of any provision of this chapter shall be subject to an administrative civil penalty not to exceed \$500 and shall be processed in accordance with the procedures set forth in this chapter. (Ord. 1990)
- C. Each day that a violation of a provision of this chapter exists constitutes a separate citable violation. (Ord. 1990)
- D. In addition to the above penalties, a condition caused or permitted to exist in violation of this chapter is a public nuisance and may be abated by any of the procedures set forth under any applicable law. (Ord. 1990)
- E. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available to the City under any ordinance, statute or law. (Ord. 1990)

15.04.100 Building Official: Authority to Impose Administrative Civil Penalty.

- A. Upon a determination by the Building Official that any person, firm, corporation or other entity however organized has violated a provision of this chapter or a rule adopted there under, the Building Official may issue a notice of civil violation and impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections (A) to (K) of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well. (Ord. 1990)
- B. Prior to issuing an order to correct a violation under this section, the Building Official may pursue reasonable attempts to secure voluntary correction. (Ord. 1990)
- C. Prior to issuing a notice of civil violation and imposing an administrative civil penalty under this section, the Building Official shall issue an order to correct a violation to one or more of the responsible persons within a reasonable timeline [based on the history of the violation as determined by the Building Official](#). Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be less than seven calendar days. (Ord. 1990)
- D. Following the date or time by which the correction must be completed as required by an order to correct a violation, the Building Official shall determine whether the required correction has been completed. If the required correction has not been completed by the date or time specified in the order, the Building Official may issue a notice of civil violation and impose an administrative civil penalty to each responsible persons to whom the order to correct was issued. (Ord. 1990)
- E. Notwithstanding subsections (B) and (C), the Building Official may issue a notice of civil violation and impose an administrative civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the Building Official determines that the violation was knowing or intentional or a repeat of a similar violation. (Ord. 1990)
- F. In imposing an administrative civil penalty authorized by this section, the Building Official shall consider: (Ord. 1990)
 - 1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
 - 2. Any prior violations of statutes, rules, orders, and permits;
 - 3. The gravity and magnitude of the violation;
 - 4. Whether the violation was repeated or continuous;
 - 5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;

6. The violator's cooperativeness and efforts to correct the violation; and
7. Any relevant rule of the Building Official.

G. Any notice of a civil violation that imposes an administrative civil penalty under this section shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. Every notice shall include the following information: (Ord. 1990)

1. Reference to the particular code provision, permit requirement, ordinance number, or rule involved;
2. A short and plain statement of the violation or how the structure or property in question is a violation;
3. A statement of the amount of the penalty(ies) that are, or could in the future be, imposed;
4. The date on which the order to correct was issued and time by which correction was supposed to be made, or if the penalty is imposed pursuant to subsection (E), a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated; and
5. A statement of the party's right to appeal the civil penalty to the City Manager; a description of the process the party is required to use to appeal the civil penalty; and the deadline by which such an appeal must be filed.

H. Any person, firm, corporation or other entity however organized to whom a notice of civil penalty is issued may appeal the penalty to the City Manager. The provisions of Section 15.04.110 shall govern any requested appeal. (Ord. 1990)

I. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the City Manager pursuant to, and within the time limits established by, Section 15.04.110. (Ord. 1990)

J. Each day the violator fails to remedy the code violation shall constitute a separate citable violation. (Ord. 1990)

K. The civil administrative penalty authorized by this section shall be in addition to: (1) Assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and (2) any other actions authorized by law, provided that the City shall not issue a citation to Municipal Court for a violation of this Chapter. (Ord. 1990)

15.04.110 Appeal Procedures.

A. A person, firm, corporation or other entity, however organized, that is aggrieved by an administrative action of the Building Official taken pursuant to any section of this chapter that authorizes an appeal under this section may, within 15 days after the date of notice of the action, appeal in writing to the Building Official. The written appeal shall be accompanied by the appeal fee, set by resolution of the city council, and shall include the following information: (Ord. 1990)

1. The appellant's name and address;
2. Identify the determination that is being appealed and describe it generally;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be. If a person, firm, corporation or other entity however organized appeals a civil penalty to the City Manager, the penalty shall become final, if at all, upon issuance of the City Manager's decision affirming the imposition of the administrative civil penalty.

B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until a final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension. (Ord. 1990)

C. Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Manager within 30 days of the receipt of the notice of intent to appeal. At least 10 days prior to the appeal hearing, the City shall mail notice of the time and location thereof to the appellant. (Ord. 1990)

D. The City Manager shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Manager deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or through an attorney. The burden of proof shall be on the Building Official. The rules of evidence as used by courts of law do not apply. (Ord. 1990)

E. The City Manager shall issue a written decision within 10 days following the hearing. The City Manager's written decision shall be final. (Ord. 1990)

F. Except as provided in this subsection, the appeal fee is not refundable. The City Manager may make a determination on the motion of the appellant that the appeal fee is refunded to the appellant upon a finding by the City Manager that the appeal was not frivolous. (Ord. 1990)

G. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final as provided in subsection (A) shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by section 15.04.120, other provision of this code or state law. (Ord. 1990)

15.04.120. Unpaid Penalties.

A. Failure to pay an administrative penalty imposed pursuant to this code within ten days after the penalty becomes final shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The Building Official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection (B) below, other provisions of this code, or state statutes. (Ord. 1990)

B. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the city and/or county lien docket(s). At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the city and/or county lien docket(s). The lien shall be enforced in the same manner as all City liens. Interest shall commence from the date of entry of the lien in the lien docket. (Ord. 1990)

C. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy. (Ord. 1990)

15.04.130. Notice of Violations and Stop Work Orders. Whenever any work on any building, structure, electrical, gas, mechanical or plumbing system is being done contrary to the provisions of this chapter or other ordinance of the city, the Building Official may order the work stopped by giving written notice of the violation. The Building Official shall give the written notice to the owner of the property or his agent or to any person doing the work or causing it to be done and shall also post the property. The notice shall state the specific violations and conditions under which work may be resumed. If the Building Official determines that an emergency exists or there is an imminent threat of harm to the public generally or individuals, the Building Official may order all work stopped without prior written notice by issuing a Stop Work Order. Upon issuance and posting of a Stop Work Order, all work shall immediately cease. (Ord. 1990)

Exhibit B

Strikes and Underlines of existing HRMC 15.20:

CHAPTER 15.20 – Television and Radio Towers*

~~CHAPTER 15.20 – TELEVISION AND RADIO TOWERS~~

~~Legislative History: Ord. 993 (1953); Ord. 1728 (1996); Ord. 1730 (1996)~~

~~Sections:~~

~~15.20.010 Definitions~~

~~15.20.020 License Required Exceptions~~

~~15.20.030 License Application requirements~~

~~15.20.040 License Fees~~

~~15.20.050 License Bond requirements~~

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~~15.20.060 Damage by failure of principal to comply Procedure~~

~~15.20.070 Established place of business required for license~~

~~15.20.080 Permit required for erecting antennas~~

~~15.20.090 Permit Fees Required application information~~

~~15.20.100 Installation standards~~

~~15.20.110 Certain installations prohibited in automobiles~~

~~15.20.120 Permit not required for minor antenna repairs~~

~~15.20.130 Maintenance of existing antennas and towers~~

~~15.20.140 Duties, rights and powers of building inspector~~

~~15.20.150 Interference with building inspector prohibited~~

~~15.20.160 Completion of work Notice for inspection Disapproval Reinspection~~

~~15.20.170 Violation—Penalty~~

~~15.20.010 Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:~~

~~A. "Antenna" means the outdoor portion of the receiving equipment used for receiving television or radio waves from space.~~

~~B. "Building inspector" means the building inspector of the city or any of his authorized assistants.~~

~~C. "Height" means the overall vertical length of the antenna system above the ground, or, if such system be located on a building, then, above that part of the level of such building upon which the system rests.~~

~~D. "Mast" means that portion of the outside antenna system to which the antenna is attached, and the support or extension required to elevate the antenna to a height deemed necessary for adequate operation.~~

~~E. "Person" means and includes any person, firm, partnership, association, corporation, company or organization of any kind. (Ord. 993 §13, 1953)~~

~~15.20.020 License—Required—Exceptions. It is unlawful for any person, firm or corporation to engage in the business of erecting or installing masts or towers for antennas or similar devices for receiving or transmitting radio frequency signals, or to erect or install such masts, towers or devices without first obtaining a license from the city; or to erect any exterior television or radio masts or towers or other like apparatus without first obtaining a permit therefor from the building inspector, except that masts, towers or devices twenty feet or under in height, and installations by licensed amateur radio operators for their own use, shall be excluded from the provisions of this section pertaining to the securing of a permit; or to erect, install, maintain or use any exterior television or radio mast or tower or other like device in violation of this chapter; provided, however, that nothing in this chapter contained shall apply to the installation of radio masts or towers or like apparatus in or upon vehicles. (Ord. 993 §1, 1953)~~

~~15.20.030 License—Application Requirements. Any person, firm or corporation desiring to engage in the business of erecting or installing towers or masts for television or radio antennas or other exterior equipment or devices to be used for the reception or transmission of radio frequency signals, shall make application for a license to the city recorder, which application shall set forth the name and business address of the applicant, and if the application be that of a firm or partnership, the names of the partners, and in case of a corporation, the names of the president and secretary thereof and the name of the person who will have charge of any antenna, mast or tower installation work within the city. (Ord. 993 §2, 1953)~~

~~15.20.040 License—Fees. The initial license fee for engaging in the business mentioned in Section 15.20.030 shall set by council resolution and be valid for one year, and shall be issued on a fiscal year basis, but if a new license is obtained after January 1st, only one half the annual fee shall be required. The license that has not been permitted to lapse may be renewed for a fee as set by council resolution and be valid for one year. (Ord. 1730 1996 part : Ord. 993 §3, 1953)~~

~~15.20.050 License—Bond Requirements. Before issuing any license the city recorder shall require of the applicant a bond in the penal sum of one thousand dollars issued by a surety company authorized to do business within the state, such bond to be approved by the city attorney and to be filed in the office of the city recorder, and to be conditioned that in the installation or erection of antennas, masts or towers or other exterior television or radio equipment or other like apparatus in the city, the principal in such bond will make such installation in accordance with the rules and provisions contained in this chapter and any other ordinance of the city, and conditioned further,~~

that the principal will pay all labor and material claims for any such work and all damages sustained by any person, firm or corporation arising from failure of the principal to make such installations in the manner aforesaid. In case any bond is not renewed upon expiration, or in case a new bond is not furnished by the applicant in the event a former bond is canceled, the license issued the applicant under this chapter shall be null and void. (Ord. 993 §4, 1953)

~~15.20.060 Damage by Failure of Principal to Comply Procedure. Any person, firm or corporation making application therefor and affidavit to the city recorder that such person, firm or corporation has been damaged by failure of the principal in any bond as required by Section 15.20.050 to comply with the requirements of this chapter, or the provisions of the bond given, shall be by the city recorder furnished with a certified copy of the bond of the person, firm or corporation named in such affidavit, and shall have the right to bring action in the name of city, for his or their use and benefit against such principal and surety to recover for any labor or materials furnished the principal named in such bond and unpaid, and for his or their damages arising out of the failure of the principal named to comply with the requirements of this chapter, and to prosecute the same to final judgment and execution; provided, that the surety's total liability on such bond shall not exceed the sum of one thousand dollars and the right to commence an action against such surety shall not exist for a longer period than ninety days from the completion of any contract. (Ord. 993 §5, 1953)~~

~~15.20.070 Established Place of Business Required for License. No license shall be issued to any person, firm or corporation not having a regularly established place of business or establishment to erect or install antennas, masts or towers for television or radio or other exterior equipment or devices to be used for the reception or transmission of radio frequency signals in a workmanlike manner, and if the place of business is within the corporate limits of the city, a sign not less than three square feet in area shall be displayed thereon, provided such sign shall be permitted under other ordinances of the city; such sign to contain the name of the licensee, and may contain such other matter as may be appropriate. (Ord. 993 §6, 1953)~~

~~15.20.080 Permit Required for Erecting Antennas. No person, firm or corporation, except licensed amateur radio operators erecting devices for their own use, shall erect or install any exterior television or radio antenna mast or tower or similar device over twenty feet in height with out first obtaining a permit from the building inspector. An application for such permit shall be on forms provided by the building inspector, and shall contain the address of the place where installation is to be made and such other pertinent information and data as the building inspector may require as set forth in this chapter. Such application shall be made by the owner or lessee of the building or property whereupon the antenna or other similar device is to be erected or installed, or by the person, firm or corporation that will make such installation. If the owner or lessee of the premises makes the application, he shall furnish the name of the person, firm or corporation that will make the installation. No permit will be issued unless the applicant or the person, firm or corporation that will make the installation is licensed under this chapter, except that a special permit may be issued to an individual authorizing him to make any such installation on or about a building of which he is the owner or tenant, provided he has owner's written consent; provided further, that in such case the work authorized by the permit must be done personally by such owner, owners or lessees, and not by any person employed for such purpose. In case the application is for the erection of an antenna or a mast or tower in excess of fifty feet in height, two complete sets of detailed plans and specifications shall be filed with the application. (Ord. 993, 1953)~~

~~15.20.090 Permit Fees Required Application Information.~~

~~A. Inspection Fees. An inspection fee as set by council resolution shall be paid for each permit issued under Section 15.20.080. A re-inspection fee as set by council resolution shall be paid for each trip when extra inspections are necessary due to any one of the following: (Ord. 1730, 1996; Ord. 1728, 1996)~~

- ~~1. Wrong address;~~
- ~~2. Condemned work resulting from faulty construction;~~
- ~~3. Repairs or corrections not made when inspection is called;~~
- ~~4. Work not ready for inspection when called.~~

~~B. Application Data. Application for permits shall be made upon blanks provided by the building inspector and shall contain, or have attached thereto the following information:~~

- ~~1. Name, address and telephone number of the owner for whom to be made;~~

2. Whether it is a new installation, repair or maintenance work;
3. Whether a radio or television receiving or transmitting antenna;
4. A simple sketch of the installation; and
5. Name of the person making the installation. (Ord. 993, 1953)

15.20.100 Installation Standards.

A. No antenna, mast or tower shall be attached to or supported by a parapet wall, chimney or vent pipe.

B. No antenna, mast or tower shall be installed in such close proximity to any electric, telephone, telegraph or other public utility line or wire that the antenna, mast or tower, if overturned or blown down, would or could come in contact or within two feet of any such wire or line; provided, that this provision shall not apply to a service lead or drop. In no case shall a mast or antenna be installed nearer to a street or sidewalk than the height of the antenna plus ten feet unless approved by the building inspector and no wires, cables or guy wires shall cross or extend over any part of any street or alley unless permission is first obtained from the council.

1. Where the strict application of the provisions of subdivision 1 of this subsection makes it difficult or virtually impossible to install or erect a mast or tower for radio or television antenna, or antennas, because of the peculiar or particular location of any buildings or premises and the utility wires in close proximity thereto, a special permit may be issued for the installation of any such antenna, mast or tower provided the application therefor be first approved by the building inspector, and the application shall set forth the undue hardship created by the strict application of subdivision 1, and the building inspector shall approve any such application if he first finds that the proposed installation will not be unduly hazardous and will not constitute a menace to persons or property, and the building inspector may prescribe such safeguards as he may deem necessary for the protection of persons and property.

C. The masts or any antenna shall be guyed every ten feet, except where masts three inches in diameter or larger are used the guy spacing may be increased provided the provisions of subsection F of this section are complied with, and shall be grounded with not less than #8 copper or #8 aluminum wire; and the ground shall be attached to a cold water pipe with an approved ground clamp, or an approved ground rod not less than one half inch in diameter and four feet in length may be used.

D. Screw eyes or snubbed screw hooks shall be not less than one fourth inch in diameter and the same shall be set not less than two inches in a solid structural member and not more than one guy or guyline shall be attached to any screw eye or hook.

E. Guy wires shall be not less than 6-20 stranded galvanized steel cables.

F. Not less than three guy anchors shall be used to guy any mast, and in case three only are used, they shall be spaced at one hundred twenty degrees apart. All guy wires shall be securely fastened.

G. Every mast, tower or device installed on a roof shall be mounted on its own platform or plate covering one or more rafters of the roof and shall be securely anchored with guy wires, and installations shall be structurally sound, shall be of weatherproofed metal construction, and shall be made to meet all state and local safety code requirements, providing radio and transmission masts or antennas need not be of all metal construction. (Ord. 993, 1953)

15.20.110 Certain Installations Prohibited in Automobiles. It is unlawful for any person to install a television set forward of or which is visible from the front seats of any motor operated vehicle, otherwise the provisions of this chapter shall not apply to automobiles. (Ord. 993, 1953)

15.20.120 Permit Not Required for Minor Antenna Repairs. Notwithstanding anything in this chapter to the contrary, minor repairs to antennas may be made without permit. (Ord. 993, 1953)

15.20.130 Maintenance of Existing Antennas and Towers. Every mast, tower for antenna or similar devices erected prior to the effective date of the ordinance codified in this chapter may be maintained and operated in its present location, unless such antenna is so constructed and maintained as to be unsafe and dangerous as determined by the building inspector. The building inspector is authorized to require the removal or reconstruction of any mast, tower for antenna or similar device which he deems unsafe or dangerous. (Ord. 993, 1953)

15.20.140 Duties, Rights and Powers of Building Inspector.

A. It shall be the duty of the building inspector and his authorized assistants to inspect all television and radio receiving antennas, as described in this chapter, to ascertain if the work has been done in a neat and workman like

manner and to investigate all complaints from the general public pertaining to such antenna installations and interference caused thereby.

~~B. The building inspector and his assistants are empowered to inspect or re-inspect any wiring, equipment or apparatus for radio and television receiving service in the city, and if the conductors, equipment or apparatus are found to be unsafe to life or property, or are not in conformity with the provisions of this chapter, the building inspector shall notify the person owning or operating the hazardous wiring or equipment to correct the condition within a specified time.~~

~~C. Failure to correct violations within a specified time shall constitute a violation of this chapter. (Ord. 993, 1953)~~

~~15.20.150 Interference With Building Inspector Prohibited. It is unlawful for any person to hinder or interfere with the building inspector or his authorized representatives in the discharge of their duties under the provisions of this chapter. (Ord. 993 §15, 1953)~~

~~15.20.160 Completion of Work—Notice for Inspection—Disapproval—Re-inspection. The person to whom a permit has been granted for the installation of a television or radio receiving antenna shall immediately notify the building inspector when the work covered by the permit has been completed and is ready for final inspection. Upon such notice, the building inspector or his authorized representatives shall promptly inspect and approve the installation if the work complies in all respects with the provisions of this chapter and the permit, and shall disapprove such installation if it fails to comply, stating in writing the reasons for disapproval and specify a time within which such defects must be corrected. A re-inspection shall be made after notice to the building inspector that the defects have been corrected. (Ord. 993, 1953)~~

~~15.20.170 Violation—Penalty. Any person, firm or corporation violating any provision of this chapter shall, upon conviction in the municipal court, be fined in a sum not exceeding two hundred dollars, or be imprisoned in the city jail not to exceed thirty days or be punished by both such fine and imprisonment. (Ord. 993, 1953)~~