

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY OF ASHLAND FLOOD DAMAGE PREVENTION REGULATIONS (CHAPTER 15.10), ADOPTING BY REFERENCE REVISED THE FLOOD INSURANCE STUDY FOR JACKSON COUNTY OREGON AND INCORPORATED AREAS, AND ACCOMPANING FLOOD INSURANCE RATE MAPS.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession;

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293, 531 P 2d 730, 734 (1975);

WHEREAS, the Federal Emergency Management Agency (FEMA) published a preliminary Flood Insurance Study (FIS), and Flood Insurance Rate Maps (FIRMS) on June 30, 2009, and both, after public input and revision, are completed and will be effective on May 3, 2011 for Jackson County, Oregon and the incorporated areas;

WHEREAS, the City of Ashland is a participant in the National Flood Insurance Program, and each participating community is responsible for planning, adoption and enforcement of regulations to accomplish proper floodplain management;

WHEREAS, notice of the proposed Ordinance Amendment was sent to the Department of Land Conservation and Development (DLCD) on May 14, 2010 as required by State law;

WHEREAS, public notice was mailed on May 7, 2010 consistent with Oregon state law. (ORS 227.186) directly to property owners whose property is currently located in the floodplain, and those whose properties will be in the floodplain when the new floodplain maps become effective;

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the above-referenced amendments on March 1, 2011;

WHEREAS, the City Council of the City of Ashland, following the close of the public hearing and record, deliberated and conducted first and second readings approving adoption of the Ordinance in accordance with Article 10 of the Ashland City Charter;

WHEREAS, the City Council of the City of Ashland has determined that in order to protect and benefit the health, safety and welfare of existing and future residents of the City, it is necessary to amend the Ashland Municipal Code Flood Damage and Prevention regulations and Physical and Environmental Land Use Ordinance in the manner proposed; and

WHEREAS, the City Council of the City of Ashland has determined that an adequate factual base exists for the amendments, the amendments are consistent with the comprehensive plan and that such amendments are fully supported by the record of this proceeding.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. Those documents entitled “Flood Insurance Study (FIS) for Jackson County, Oregon and Incorporated Areas” effective May 3, 2011, with accompanying Flood Insurance Rate Maps (FIRMS) are hereby adopted as the basis for establishing the special flood hazard areas for floodplain management in the City of Ashland.

The special flood hazard areas documented in the FIS and the FIRMS are the minimum area of applicability of the floodplain management regulations and may be supplemented by studies for other areas as allowed in the regulations.

SECTION 3. Section 15.10.040 [Methods of Reducing Flood Losses] through 15.10.090 [Variances and Appeals] are hereby amended to read as follows:

15.10.040 Methods of Reducing Flood Losses.

In order to accomplish its purpose, this section includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards outside of identified flood hazard areas.

F. Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

15.10.050 Definitions.

Unless specifically defined below or elsewhere in this Code, words or phrases used in this Chapter shall be interpreted as to give them the meaning they have in common usage and to give this Chapter it's most reasonable application.

- A. Appeal means a request for a review of the Building Official's interpretation of any provision of this Section or a request for a variance.
- B. Area of Shallow Flooding means a designated AO or AH zone on the Flood Insurance Rate Map. The base flood depths range from one (1) to three (3) feet; clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- C. Area of Special Flood Hazard means the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
- D. Base Flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on flood maps always includes the letters A or V.
- E. Basement, for the purposes of this chapter, means the portion of a structure with its floor sub-grade (below ground level) on all sides, or the definition provided in Section 18.08.078 of the Ashland Municipal Land Use code, whichever is more restrictive.**
- F. Below-Grade Crawl Space means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.**
- G. Building Code means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.**
- H. Critical Facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.**
- ~~F~~ E. Development means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- GF.** Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

H.G. Flood Insurance Rate Map (FIRM) means the official map **of a community on which the issued by the** Federal Insurance Administration ~~has delineated both~~ **delineating** the areas of special flood hazards and/or the risk premium zones applicable to the community.

I.H. Flood Insurance Study means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary - Flood way Map, and the water surface elevation of the base flood.

J.F. Flood-way means that channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

J. ~~Habitable Floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable" floor.~~

K. Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found in Section 15.10.080(B)(1)(b).

L. Manufactured Home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

M. Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

N. New Construction means structures for which the "start of construction" commenced on or after the effective date of this Ordinance and includes new mobile home parks and mobile home subdivisions.

O. Recreational Vehicle, as it pertains to the provisions of this chapter, means a vehicle which is:
a. Built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projection;
c. Designed to be self-propelled or permanently towable by a light duty truck; and

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Q.P. Structures as it pertains to the provisions of this Chapter is a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

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

S.Q. Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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 purpose of this definition, "substantial improvement" is considered to occur when the first alteration of 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:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

15.10.060 General Provisions.

- A. Lands to which this Chapter applies. This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Ashland, Oregon.
- B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "~~City of Ashland, Oregon,~~ for Jackson County, Oregon and Incorporated Areas", dated ~~June 1, 1981~~, May 3rd, 2011, with accompanying Flood Insurance Rate Maps is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study and accompanying maps (as updated) are on file at City Hall, Ashland, Oregon.
- C. Compliance. No structure on land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and other applicable regulations.
- D. Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation. In the interpretation and application of this Chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit or repeal any other powers granted under state statutes and rules including the state building code.
- F. Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

15.10.070 Administration.

- A. Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.10.060(B). The permit shall be for all structures including manufactured homes, as set forth in the Definitions, and for all other development including fill and other activities, also set forth in Definitions.

Application for a development permit shall be made on forms furnished by the Building Official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage

facilities; and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 2. Elevation in relation to mean sea level to which any structure has been flood-proofed;
 3. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 15.10.090(B)(2);
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- B. Designation of the Building Official. The Building Official is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.
- C. Duties and Responsibilities of the Building Official. Duties and responsibilities of the Building Official shall include, but not be limited to:
1. Permit Review:
 - a. Review all development permits to determine that the permit requirements of this Section have been satisfied.
 - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the flood way. If located in the flood way, assure that the encroachment provisions of Section 15.10.080(C)(1) are met.
 2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.10.060(B), "Basis for Establishing the Areas of Special Flood Hazard", the Building Official shall obtain, review, and reasonably utilize any base flood elevation and flood-way data available from a federal, state or other source, in order to administer Sections 15.10.080(B)(1) "Specific Standards: Residential Construction", 15.10.080(B)(2) "Specific Standards: Nonresidential Construction, and 15.10.080(C) "Flood-ways".
 3. Information to be Obtained and Maintained.
 - a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 15.10.070(C)(2), obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement and below grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved flood-proofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea level); and
 - ii. Maintain the flood proofing certifications required in Section 15.10.070(A)(3).

- c. Maintain for public inspection all records pertaining to the provisions of this Section.
- 4. Alteration of Watercourses.
 - a. Notify adjacent communities and the ~~Water Resources Commission~~ **Department of Land Conservation and Development and other appropriate state and federal agencies** prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- 5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.10.090.

15.10.080 Provisions for Flood Hazard Protection.

- A. General Standards. In all areas of flood hazards the following standards are required:
 - 1. Anchoring:
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook.
 - 2. Construction Materials and Methods:
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 3. Utilities:
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination for the during flooding.
 - 4. Subdivision Proposals.
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - d. Where base flood elevation data has not been provided or is not available from another authoritative source it shall be generated for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.
 - 5. Review of Building Permit:
 - a. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source (Section 15.10.070(C)) applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate **the lowest floor** at least two (2) feet above grade in these zones may result in higher insurance rates.
 - b. To determine the flood base elevation, the applicant's Oregon registered engineer or land surveyor shall investigate all available sources of information, such as historic flooding profiles, high water marks, photographs of past flooding, soil characteristics, or any other feasible methods. A report shall be submitted to the City by the applicant, setting forth said elevation and citing the evidence upon which the estimate is made. Said report may be accepted or rejected by the City. The Oregon registered engineer or surveyor shall place a permanent elevation marker on the property.
- B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.10.060(B), "Basis for Establishing the Areas of Special Flood Hazard", or Section 15.10.070(C)(2), "Use of Other Base Flood Data, the following provisions are required:
 - 1. Residential Construction:
 - a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least two (2) feet or above base flood elevation. Prior to the issuance of a certificate of occupancy by the City, the property owner shall furnish certification by a registered engineer or surveyor of the actual elevation of the lowest habitable floor, including a basement.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic

flood sources on exterior walls by allowing for entry and exit of flood-waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- i. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood-waters.
2. Nonresidential Construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or together with attendant utility and sanitary facilities; shall:
- a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by an Oregon registered professional engineer or architect that the designs and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection based on their development review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.10.070(C)(3)(b).
 - d. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 15.10.080(B)(1)(b).
 - e. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g., a building constructed to the base flood level will be rated as one (1) foot below that level).
3. Manufactured Homes: All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 15.10.080(A)(1).
- 4. Recreational vehicles placed on sites are required to either:**
- a. Be on the site for fewer than 180 consecutive days,**
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type**

utilities and security devices, and has no permanently attached additions; or

c. Meet the requirements of Section 15.10.80 the elevation and anchoring requirements for manufactured homes.

5. Critical Facility: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

6. Below-grade Crawl Spaces: Below-grade crawl spaces area allowed provided they conform to the guidelines in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.

C. Flood-ways: Located within areas of special flood hazard established in Section 15.10.060(B) are areas designated as flood-ways. Since the flood-way is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If Section 15.10.080(C)(1) above is satisfied, all new construction, and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 15.10.080, "Provisions for Flood Hazard Protection".

15.10.090 Variances and Appeals.

- A. Appeals shall be granted consistent with the standards of Section 1910.6 of the Rules and Regulations of the National Flood Insurance Program (~~24 CFR 1909, etc.~~ 44 CFR 60.6).
- B. The Board of Appeals established by Section 15.04.200 of this Chapter shall hear variances and appeals from the final decisions of the Building Official.
- C. In passing upon applications for appeal or variance, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other parts of this Code; and

1. The danger that materials may be swept onto other lands to the injury or loss of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
- 5. The necessity to the facility of a waterfront location, where applicable;**
- ~~5~~ **6.** The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - ~~6~~ **7.** The compatibility of the proposed use with existing and anticipated development;
 - ~~7~~ **8.** The consistency of the proposed use with the policies of the Comprehensive Plan and flood plain management program for that area;
 - ~~8~~ **9.** The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - ~~9~~ **10.** The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and effects of channel movement, if applicable, expected at the site; and
 - ~~10~~ **11.** The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- D. Upon consideration of the factors of and the purpose of the Chapter, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
- E. The Building Official shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon approval.
- F. Conditions for Variances:
1. Variances shall not be issued within any designated flood-way if any increase in flood levels during the base flood discharge would result.
 2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 3. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship for the applicant; and,
 - c. A determination that granting the 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, or conflict with existing laws or Ordinances.
 4. Any applicant to whom a variance is granted shall be given written notice that the cost of flood insurance will be commensurate with any increased risk that may result from development for which the variance is issued.

SECTION 4. Section 15.10.100 [Penalties] is hereby amended to read as follows:

15.10.100 Penalties

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this ordinance has committed an infraction, and upon conviction thereof, is punishable as prescribed in Section 1.08.020 of the Ashland Municipal Code. Such person, firm or corporation is guilty of a separate violation for each and every day during which any violation of this Chapter is committed or continued by such person, firm or corporation. In addition, violation of this Ordinance shall constitute a public nuisance and may be regarded as such in all actions, suits and proceedings. Said nuisance may be prosecuted in the courts of the State of Oregon.

SECTION 5. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 6. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 7. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1, 2, 5, 6, and 7) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ____ day of _____, 2011, and duly PASSED and ADOPTED this ____ day of _____, 2011.

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2011.

John Stromberg, Mayor

Reviewed as to form:

Megan Thornton, Interim City Attorney