

**CHAPTER 13**  
**FLOOD PLAIN MANAGEMENT**  
**TABLE OF CONTENTS**  
**(amended 12-07-2010)**

<b>Article I. Findings of fact and purposes</b>	Pg. 2
13.005. Findings and fact	Pg. 2
13.010. Statement of purpose	Pg. 2
13.015. Definitions	Pg. 3
<b>Article II. General Provisions</b>	Pg. 8
13.105. Lands to which ordinance applies	Pg. 8
13.110. Floodplain Administrator	Pg. 8
13.115. Compliance	Pg. 9
13.120. Abrogation and greater restrictions	Pg. 9
13.125. Interpretation	Pg. 9
13.130. Warnings and disclaimer of liability	Pg. 9
13.135. Severability	Pg. 9
<b>Article III. Administration</b>	Pg. 9
13.205. Floodplain Development Permit	Pg. 9
13.210. Breaches of Permit, Cures	Pg. 10
13.215. Permit Fees	Pg. 11
13.220. Designation of Floodplain Administrator	Pg. 11
13.225. Duties and responsibilities of Floodplain Administrator	Pg. 11
13.230. Applications for floodplain development permit	Pg. 12
<b>Article IV. Provisions for flood hazard reduction</b>	Pg. 13
13.235. General Standards	Pg. 13
13.240. Specific Standards	Pg. 14
13.335. Manufactured Homes	Pg. 16
13.340. Recreational Vehicles	Pg. 17
<b>Article V. Floodplain Management Variance Procedures</b>	Pg. 18
13.405. Establishment of appeal board	Pg. 18
13.410. Responsibility of appeal board	Pg. 18
13.415. Further Appeals	Pg. 18
13.420. Floodplain management variance criteria	Pg. 18
13.425. Conditions for approving floodplain management var.	Pg. 19
13.430. Conditions for approving variances for accessory struct.	Pg. 20
<b>Article VI. Penalties for violation</b>	Pg. 21
13.505. Penalty for violation	Pg. 21
<b>Article VII. Amendments</b>	Pg. 21
13.510. Procedures to amend	Pg. 21

**CHAPTER 13  
FLOODPLAIN MANAGEMENT ORDINANCE**

**Article 1. Findings of fact and purposes**

**13.005. Findings of Fact**

1. Flood Losses Resulting from Periodic Inundation

The special flood hazard areas of the City of Ashland, Missouri, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. General Causes of the Flood Losses

These flood losses are caused by (1) cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

**13.010. Statement of purpose**

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article I, Section 13.005; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a) (3); and to meet the requirements of 44 CFR 60.3(b) by applying the provisions of this ordinance to:

1. restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

**13.015. Definitions**

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

100-year Flood, see “base flood.”

Accessory Structure, means the same as “appurtenant structure.”

Actuarial Rates, see “risk premium rates.”

Administrator, means the Federal Insurance Administrator.

Agency, means the Federal Emergency Management Agency (FEMA).

Agricultural Commodities, means agricultural products and livestock.

Agricultural Structure, means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

Appeal, means a request for review of the Floodplain Administrator’s interpretation of any provision of this ordinance or a request for a variance.

Appurtenant Structure, means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

Area of Special Flood Hazard, is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base Flood, means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement, means any area of the building having its floor sub-grade (below ground level) on all sides.

Building, see “structure.”

Chief Executive Officer or Chief Elected Official, means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

Community, means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Development, means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated Building, means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Eligible Community, or Participating Community, means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

Existing Construction, means for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

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

Expansion to an Existing Manufactured Home Park or Subdivision, means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding, means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM), means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

Flood Insurance Rate Map (FIRM), means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood-prone Area, means any land area susceptible to being inundated by water from any source.

Floodplain Management, means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations, means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

Flood proofing, means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

Functionally Dependent Use, means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

Historic Structure, means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

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 flood proofing design requirements of this ordinance.

Manufactured Home, means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle.

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

Map, means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

Market Value or Fair Market Value, means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

Mean Sea Level, means for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

New Construction, means for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

(NFIP), means the National Flood Insurance Program (NFIP).

Participating Community, also known as an "eligible community", means a community in which the Administrator has authorized the sale of flood insurance.

Person, includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

Principally Above Ground, means that at least fifty one (51) percent of the actual cash value of the structure, less land value, is above ground.

Recreational Vehicle, means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (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.

Remedy A Violation, means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

Risk Premium Rates, means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the final accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.

Special Flood Hazard Area, see area of special flood hazard.

Special Hazard Area, means an area having special flood hazards and shown on an FHBM or FIRM as zones (unnumbered or numbered) A, AO, AE, or AH.

Start of Construction, includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within (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 slabs or footings, the installation of piles, the construction of columns, 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, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Agency, means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

Structure, means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

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

Substantial-Improvement, means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before “start of construction” of the improvement. This term includes structures, which have incurred “substantial-damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Variance, means a grant of a relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

Violation, means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

## **Article II. General Provisions**

### **13.105. Lands to which ordinance applies**

This ordinance shall apply to all lands within the jurisdiction of the City of Ashland identified as unnumbered A zones, on the Flood Insurance Rate Map (FIRM) for Boone County dated March 17, 2011 on map panel numbers 29019C0360D, 29019c0370d, and 29019c0400d as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Ashland Board of Aldermen or its duly designated representative under such safeguards and restrictions as the Board of Aldermen or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4. (amended 12-07-2010 Ordinance No. 867)

### **13.110. Floodplain Administrator**

The City Administrator is hereby designated as the Floodplain Administrator under this ordinance.

### **13.115. Compliance**

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### **13.120. Abrogation and greater restrictions**

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### **13.125. Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

### **13.130. Warnings and disclaimer of liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study.

Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside unnumbered A zones or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the City of Ashland, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

### **13.135. Severability**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## **Article III. Administration**

### **13.205. Floodplain Development Permit**

- A. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas, described in Article II, Section 13.105. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
- B. Said permit shall be applied for not less than ninety (90) days prior to the anticipated date on which work will begin. The City will process all applications within thirty (30) days of receipt. The City may deny a permit for any flood plain development for, but not limited to, the following criteria:
  - 1. Failure on the part of the applicant to provide all necessary information requested on the permit application.
  - 2. The City has provided for a reasonable, competitively neutral and nondiscriminatory alternative method for completing the requisite work that does not increase the cost of the project by more than ten (10) percent or result in a declination of service quality.
  - 3. The area where work is requested is environmentally sensitive as defined by state statute or is identified as a historic district by local ordinance. (State Law Reference 67.1836.1 (1)-(5))

**13.210. Breaches of Permit, Cures**

- 1. The City shall notify the user in writing of any substantial breach of the terms or conditions of the permit and the developer shall address such breaches within ten (10) days. The city shall reserve the right to revoke the permit for failure to comply with the terms of the permit if the breach is not cured within the ten (10) day period. In the event that a permit is revoked the City shall not refund any permit fees and may impose a fine in the amount of any reasonable and actual costs associated with having the right of way restored to its original condition.
- 2. If a users permit is revoked, the user may appeal the action to the Board of Adjustment. Decisions of the Board of Adjustment will be recorded and a written decision will be mailed to the user's address of record as it appears on the application. Anyone aggrieved by the actions of the Board of Adjustment may appeal their decision to the Board of Aldermen. Any appeal of the Board of Aldermen's actions must be addressed through mediation or binding arbitration pursuant to 67.1838.1-67.1838.4 RSMo.

3. Substantial breeches of permits shall include but not be limited to, the following:
  - a. Material violations of the permit.
  - b. Evasion or an attempt to evade material provisions of the permit or to perpetuate fraud or deceit upon the City or any of its citizens.
  - c. A material misrepresentation of fact in the permit application.
  - d. Failure to complete work by the deadline stipulated in the permit, unless an extension has been granted by the city or failure to complete the work is due to reasons beyond the user's control.
  - e. Failure on the part of the user to correct, within ten (10) days work that does not conform to applicable national safety codes, industry construction codes, or local safety codes.

### **13.215. Permit Fee**

The entity requesting a permit shall pay a fee to cover the costs of the City in issuing the permit in an amount of One Hundred and no/100 Dollars (\$100.00) plus any additional costs incurred by the City Engineer during his review of the application.

### **13.220. Designation of Floodplain Administrator**

The City Administrator is hereby appointed to administer and implement the provisions of this ordinance.

### **13.225. Duties and responsibilities of Floodplain Administrator**

Duties of the City Administrator shall include, but not be limited to:

1. review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
2. review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. issue floodplain development permits for all approved applications;

5. notify adjacent communities and the State of Missouri Emergency Management Agency prior to any alteration or relocation of a watercourse; and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished; and
7. where base flood elevation from other sources is utilized within unnumbered A zones:
  - a. verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
  - b. verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood proofed;
  - c. when flood-proofing techniques are utilized for a particular non-residential structure, the City Administrator shall require certification from a registered professional engineer or architect.

### **13.230. Application for floodplain development permit**

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose by the City Clerk. The completed form must be accompanied by a One Hundred and no/100 Dollars (\$100.00) filing fee. Every floodplain development permit application shall:

1. describe the land on which the proposed work is to be done by lot, block, and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
2. identify and describe the work to be covered by the floodplain development permit;
3. indicate the use or occupancy for which the proposed work is intended;
4. indicate the assessed value of the structure and the fair market value of the improvement;
5. identify the existing base flood elevation and the elevation of the proposed development;

6. give such other information as reasonably may be required by the City Administrator;
7. be accompanied by plans and specifications for proposed construction; and
8. be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

#### **Article IV. Provisions For Flood Hazard Reduction**

##### **13.235. General Standards**

1. No permit for floodplain development shall be granted for a new construction, substantial- improvements, and other improvements, including the placement of manufactured homes, within any unnumbered A zone unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation of floodway data currently available from Federal, State, or other sources.
3. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  - a. design or adequate anchorage to prevent flotation collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. construction with materials resistant to flood damage;
  - c. utilization of methods and practices that minimize flood damages;
  - d. all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and charges from the systems into flood

waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and

- f. subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
  - (1) all such proposals are consistent with the need to minimize flood damage;
  - (2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  - (3) adequate drainage is provided so as to reduce exposure to flood hazards; and
  - (4) all proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

#### 4. Storage, material and equipment

- a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

#### 5. Accessory Structures

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than four hundred (400) square feet, may be constructed at-grade and wet-flood proofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

### **13.240. Specific Standards**

- 1. In all areas of special flood hazard, once base flood elevation data is obtained, as set forth in Article IV, Section 13.235 (2), the following provisions are required:

a. Residential Construction

New construction or substantial-improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation plus one (1) foot.

b. Non-Residential Construction

New construction or substantial-improvement of any commercial, industrial, or other non-residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation plus one (1) foot or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this sub-section are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article III, Section 13.225(7) (c).

c. Require, for all new construction and substantial-improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) 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 shall be provided; and
- (2) the bottom of all opening shall be no higher than one (1) foot, above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. In all areas of special flood hazard, once floodway data is obtained, as set forth in Article IV, Section 13.235(2), the following provisions are required:

a. The designated floodway shall be based on the standard that the area chosen for the floodway must be designed to carry the waters of the base

flood, without increasing the water surface elevation more than one (1) foot at any point; and

- b. the community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless;
  1. It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge; and
  2. It has been demonstrated that the ingress and egress from any structure to an area outside the special flood hazard area can be made without crossing any part of the floodway that is at an elevation below BFE; and
  3. It has been demonstrated that any channel modifications to the floodway are sustainable to the same level used in hydrological and hydraulic analysis utilized to determine no increase in the water surface elevation.

If maintenance of channel modifications is required to prevent any increase in the flood levels, then a binding maintenance agreement shall be prepared, executed and recorded with the Recorder of Deeds stating what actions must be taken by the landowner to perpetuate the flood carrying capacity of the floodway. Said actions are to be in accordance with standard engineering and best management practices. The document shall include language that makes the maintenance the responsibility of the landowner and their successors and assigns. It shall authorize the community to notify the landowner of maintenance required under the agreement and, after reasonable notice, allows the community to perform the maintenance and collect from the landowner by means authorized under State Law including making a lien against the property.

### **13.335. Manufactured Homes**

1. All manufactured homes to be placed within special flood hazard areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the top or frame ties to ground anchors.
2. Require manufactured homes that are placed or substantially improved within unnumbered A zones on the community's FIRM on sites:

- a. outside of manufactured home park or subdivision;
- b. in a new manufactured home park or subdivision;
- c. in an expansion to and existing manufactured home park or subdivision; or
- d. in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial-damage” as the result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood level plus one (1) one foot and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- 3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within unnumbered A zones on the community’s FIRM, that are not subject to the provisions of Article IV, Section 13.235 (2)of this ordinance, be elevated so that either:
  - a. the lowest floor of the manufactured home is at or above the base flood elevations plus one (1) foot level; or
  - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**13.340. Recreational Vehicles**

- 1. Require that recreational vehicles placed on sites within unnumbered A zones on the community’s FHBM or FIRM either;
  - a. be on the site for fewer than 180 consecutive days, or
  - b. be fully licensed and ready for highway use; or
  - c. meet the permitting elevation, and the anchoring requirements for manufactured homes of this ordinance.
    - A recreational vehicle is ready for highway use if it’s 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.

## **Article V. Floodplain Management Variance Procedures**

### **13.405. Establishment of appeal board**

The Board of Adjustment as established by the Board of Aldermen shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

### **13.410. Responsibility of appeal board**

Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the City Administrator, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in Article V, Section 13.405.

The Board of Adjustments shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Administrator in the enforcement or administration of this ordinance.

### **13.415. Further Appeals**

Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Circuit Court of Boone County, as provided in Chapter 536 RSMo.

### **13.420. Floodplain management variance criteria**

In passing upon such applications for variances, the Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. the danger to life and property due to flood damage;
2. the danger that materials may be swept onto other lands to the injury of others;
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 of the facility of a waterfront location, where applicable;

6. the availability of alternative locations, not subject to flood damage, for the proposed use;
7. the compatibility of the proposed use with existing and anticipated development;
8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. the safety of access to the property in times of flood for ordinary and emergency vehicles;
10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
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, streets, and bridges.

**13.425. Conditions for approving floodplain management variances**

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2 through 6 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variances would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause

fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

### **13.430. Conditions for approving variances for accessory structures**

Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the buildings unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Article V, Section 13.420 and 13.425 of this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet flood-proofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Article IV, Section 13.235 (3) (b) of this ordinance.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Article IV, Section 13.235 (3) (a) of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation, or flood proofed so that they are contained within a watertight, flood proofed enclosure that is capable of resisting damage during flood conditions in accordance with Article IV, Section 13.253 (3) (d) of this ordinance.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation

walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Article IV, Section 13.340 (1) (c) of this ordinance

6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Article IV, Section 13.340 (2) (b) of this ordinance. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administrated by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
10. Wet-flood proofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

#### **Article VI. Penalties for violation**

##### **13.505. Penalty for violation**

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards, established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than Five Hundred Dollars (\$500.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Ashland or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## Article VII. Amendments

### **13.510. Procedures to amend**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Ashland. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.