City Of Scio, Oregon

ORDINANCE NO. 579

Updated February 2019
As Amended by Ordinance No. 612

AN ORDINANCE ESTABLISHING SPECIAL FLOOD HAZARD AREAS, PROVIDING FOR REGULATION WITHIN SUCH AREAS AND DECLARING AN EMERGENCY.

The City of Scio does ordain as follows:

SECTION 1. TITLE

This ordinance shall be known as the "Flood Hazard Ordinance" of the City of Scio, Oregon.

SECTION 2. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

A. *Statutory Authority*

The State of Oregon has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Scio, does ordain as follows:

B. Findings of Fact

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

(2) These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(3) The City of Scio has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.

C. Statement of Purpose

The objectives of this ordinance are to:

(1) Protect human life, health and property;

(2) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(3) Help maintain a stable tax base by providing for the sound use and development of special flood hazard so as to minimize future flood blight areas;

(4) Minimize expenditure of public money for costly flood control projects;

(5) Minimize the need for rescue and emergency services associated with flooding and generally undertaken at the expense of the general public;

(6) Minimize unnecessary disruption of commerce, access and public service during times of flood;

(7) Ensure that potential buyers are notified that property is in an area of special flood hazard;

(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions, and;

(9) Manage the alteration of flood hazard areas, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain.

D. Methods of Reducing Flood Losses

In order to accomplish its purpose, this ordinance includes methods and provisions to,

(1) Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;

(2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

(3) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(4) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;

(5) Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;

(6) Coordinate with and supplement provisions of the state building codes with local land use and development ordinances.

SECTION 3. DEFINITIONS

Unless specifically defined in Section 3, words or phrases used in this ordinance shall be interpreted according to the meaning they have in common usage.

"Accessory Structure" means a structure on the same or adjacent parcel as a principal structure, the use of which is incidental and subordinate to the principal structure. A separate insurable building should not be classified as an accessory or appurtenant structure.

"Alteration of a Watercourse" includes, but is not limited to, any dam, culvert, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area or capacity, which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

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

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a

clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. AO is characterized as sheet flow.

"Area of Special Flood Hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designations on the FIRM include the letters A or V. Also known as the Special Flood Hazard Area (SFHA).

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the '100-year flood' designation on maps always includes the letter A or V.

"Base Flood Elevation (BFE)" means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

"Basement" means the portion of a structure with its floor sub grade (below ground level) on all sides.

"Below-grade Crawlspace" 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.

"Building" means a building or structure subject to Building Codes.

"Building Codes" means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does 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.

"City Manager" means the City Manager of the City of Scio, Oregon, or designee *(Ordinance 612 § (1) 2019)*

"Critical Facility" means a facility that is critical for the health and welfare of the population and is especially important following hazard events. Critical facilities include essential and occupancy structures, special occupancy structures, essential facilities, transportation systems, lifeline utility systems, high potential loss facilities and hazardous material storage facilities.

"Datum" The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of 1929 (NAVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

"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 or storage of equipment or materials located within the area of special flood hazard.

"Digital FIRM (DFIRM)," means Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

"Encroachment" means the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a floodway which may impede or alter the flow capacity of a floodplain.

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

"Existing Building or Structure" means a structure for which the "start of construction" commenced before September 29, 2010.

"Federal Emergency Management Agency (FEMA)" means the agency with the overall responsibility for administering the National Flood Insurance Program.

"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; or
(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Flood Insurance Study (FIS)" means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.

"Floodway (Regulatory Floodway)" means the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

"Highest Adjacent Grade (HAG)" means the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG for more information.

"Historic Structure" means a structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
(3) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or;
(4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
    (a) By an approved state program as determined by the Secretary of the Interior, or;
    (b) Directly by the Secretary of the Interior in states without approved programs.

"Lateral Addition" means an addition that requires a foundation to be built outside of the foundation footprint of the existing building.

"Letter of Map Change (LOMC)" means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

(1) Letter of Map Amendment (LOMA)
A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area;

(2) Letter of Map Revision (LOMR)
A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure of parcel has been elevated by fill above the Base Flood Elevation and is excluded from the special flood hazard area;

(3) Conditional Letter of Map Revision (CLOMR)
A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the state Building Code and 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 6.E(2)(b). "Lowest floor" for manufactured dwellings differs from stick-built homes. For a manufactured dwelling, the lowest floor means the bottom of the longitudinal chassis frame beam in A zones.

"Manufactured Dwelling" means a structure, transportable in one or more sections built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "Manufactured Dwelling" does not include a "Recreational Vehicle."

"Mean Sea Level" means for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community's FIRM are referenced.

"Natural Elevation" means the elevation of natural grade, or the grade in existence before September 29, 2010.

"New Construction" means a structure for which the "start of construction" commenced after the effective date of this ordinance.

"Recreational Vehicle" means a vehicle that is:

(1) Built on a single chassis;
(2) 400 square feet or less when measured at the largest horizontal projection;
(3) Designed to be self-propelled or permanently towed by a light duty truck, and;

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

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was 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 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 basement, footings, piers, or foundations or the erection of 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. 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 the alteration affects the external dimensions of a building.

"Structure" means a walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

"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 its market value before the damage occurred.

"Substantial Improvement" means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

(1) The appraised real market value of the structure prior to the start of the initial repair or improvement, or
(2) In the case of damage, the appraised real market value of the structure prior to the damage occurring.

The term does not include either:

(1) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

"Vertical Addition" means the addition of a room or rooms on top of an existing building.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

"Water Dependent Use" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operation.

"Water Surface Elevation" means the height, in relation to a specific datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

SECTION 4. GENERAL PROVISIONS

A. Lands to Which This Ordinance Applies

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of City of Scio. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance or Building Codes.

B. Basis for Area of Special Flood Hazard

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Linn County, [1] dated September 29, 2010, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the Scio City Manager at 38957 NW 1st Avenue, Scio, Oregon.

[1] *Flood Insurance Study for Linn County and Incorporated Areas* dated September 29, 2010, Federal Emergency Management Agency, Flood Insurance Study Number 41043CV001A. City of Scio, Oregon – Community Number 410144

C. Coordination with Building Codes.

Pursuant to the requirement established in ORS 455 that the City of Scio administers and enforces the State Building Codes, the City Council of the City of Scio does hereby acknowledge that the State Building Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the State Building Codes.

D. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard established in Section 4.B. *(Ordinance 612 § (2), 2019)*

E. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body, and;

(3) Deemed neither to limit nor repeal any other powers granted under State statutes and rules, including the state building codes.

F. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Scio or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

SECTION 5. ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

The City Manager is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance.

B. Duties and Responsibilities of the Administrator

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

(1) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard;

(2) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance;

(3) Interpret flood hazard area boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist;

(4) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file.

(5) Review all development permit applications to determine if the proposed development is located in the floodway, and if so, ensure that the encroachment standards of Section 6.B are met.

(6) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of this ordinance.

(7) When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding.

(8) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 7.D.

(9) Issue floodplain development permits when the provisions of this ordinance have been met, or disapprove the same in the event of noncompliance;

(10) Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this ordinance;

(11) Obtain, verify and record the actual elevation in relation to mean sea level where no BFE is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures.

(12) Obtain, verify and record the actual elevation, in relation to mean sea level where no

BFE is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;

(13) Ensure that all records pertaining to the provisions of this ordinance are permanently maintained in the office of the city/county clerk or his/her designee and shall be open for public inspection.

(14) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with a the floodplain development permit and this ordinance, and verify that existing buildings and structures maintain compliance with this ordinance;

(15) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure;

(16) Make Substantial Improvement or Substantial Damage determinations based on criteria set forth in Section 5.D of this ordinance.

C. Permit Procedures

Application for a Floodplain Development Permit shall be made to the City on forms furnished by the City. Specifically, the following information is required:

(1) Application Stage

(a) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities;

(b) Delineation of flood hazard areas, floodway boundaries including Base Flood Elevations, or flood depth in AO zones, where available;

(c) For all proposed structures, elevation in relation mean sea level and the Base Flood Elevation, or flood depth in AO zones, of the:

i. lowest floor, including crawlspace or basement floor, of all structures;

ii. top of the proposed garage slab, if any, and;

iii. next highest floor

(d) Locations and sizes of all flood openings in any proposed building;

(e) Elevation in relation to mean sea level of flood-proofing in any structure;

(f) An elevation certificate (based on construction drawings) for any new residential structure and certification from a registered professional engineer or architect that any proposed nonresidential flood-proofed structure will meet the flood-proofing criteria in Section 6.E(3);

(g) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;

(2) Construction Stage

(a) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an elevation certificate (building under

construction) with certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction;

(b) Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

(3) Certificate of Occupancy

(a) In addition to the requirements of the Building Codes pertaining to certificate of occupancy, prior to the final inspection the owner or authorized agent shall submit an elevation certificate (finished construction) including the following documentation that has been prepared and sealed by a registered surveyor or engineer:

i. For elevated buildings and structures in non-coastal Areas of Special Flood Hazard (A zones), the as-built elevation of the lowest floor, including basement or where no Base Flood Elevation is available the height above highest adjacent grade of the lowest floor; and

ii. For buildings and structures that have been flood-proofed, the elevation to which the building or structure was flood-proofed.

(b) Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a certificate of occupancy until such deficiencies are corrected.

(4) Expiration of Floodplain Development Permit

(a) A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion.

(b) Commencement of work includes start of construction, when the permitted work requires a building permit.

(Ordinance 612 § (3), 2019)

D. Substantial Damage and Substantial Improvement Determination

For applications for permits to improve buildings and structures, including additions, repairs, renovations, and alterations, the Floodplain Administrator, shall:

(1) Estimate the market value, or require the applicant to obtain a professional appraisal of the market value, of the building or structure before the proposed work is performed; when repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred;

(2) Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(a) Except as indicated in subsections (b) through (d) below, all costs to repair substantial damage, including emergency repairs, the costs of complying with any county, state, or federal regulation must be included;

(b) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building

official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions shall not be included;

(c) Costs associated with the following items are not included:

i. The preparation and approval of all required plans, calculations, certifications, and specifications;

ii. The performance of surveys or other geotechnical or engineering studies and resulting reports;

iii. Permit and review fees, and;

iv. The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.;

(d) Proposed alterations of a designated historic building or structure is not to be considered substantial improvement unless the alteration causes a loss of said designation.

(3) The Scio city staff shall make the final determination of whether the proposed improvement and/or repair constitutes a substantial improvement or substantial damage.

(4) The Scio city staff shall notify the applicant of the results of the determination by letter.

(5) Applicant has the right to appeal the determination pursuant to Section 7.D.

SECTION 6. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

In all areas of special 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 for additional techniques).

(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. HVAC, electrical and/or mechanical systems shall be

located at least 1' above the Base Flood Elevation.

(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 from them during flooding consistent with the Oregon Department of Environmental Quality.

(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 or eliminate 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 developments which contain at least 50 lots or 5 acres (whichever is less).

(5) Review of building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 5.C(2)), 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 at least two feet above grade in these zones may result in higher insurance rates.

(6) Balanced Cut and Fill Required. Any project within the Special Flood Hazard Area shall comply with the City of Scio's balanced cut and fill ordinance.

(*Ordinance 612 § (4), 2019*)

B. Floodways

Located within areas of special flood hazard established in Section 4.B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Except as provided in paragraph (3), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Section 6.B(1) is satisfied, all new construction and substantial improvements shall

comply with all applicable flood hazard reduction provisions of Section 6, PROVISIONS FOR FLOOD HAZARD REDUCTION.

(3) Projects for stream habitat restoration may be permitted in the floodway provided:

(a) The project qualifies for a Department of Army, Portland District Regional *General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,

(b) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,

(c) No structures would be impacted by a potential rise in flood elevation; and,

(d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(4) New installations of manufactured homes are prohibited.

C. Before Regulatory Floodway

(1) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted with in Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(2) Applicants of proposed projects that increase the Base Flood Elevation more than one foot should obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted.

D. Zones Without Base Flood Elevations

The following standards apply in riverine areas of special flood hazard where no Base Flood Elevation data have been provided (approximate A Zones):

(1) When Base Flood Elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic Base Flood Elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If Base Flood Elevations are not available, subsection (3) shall apply.

(2) Where the floodplain administrator has obtained Base Flood Elevation data, Section 6.C and Section 6.E through Section 6.M shall apply.

(3) In special flood hazard areas without Base Flood Elevation data,

(a) No encroachments, including structures or fill, shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless a Base Flood Elevation is developed by a licensed professional engineer; or

(b) The lowest floor of any insurable building or structure, including manufactured dwellings, shall be elevated a minimum of three (3) feet above highest adjacent grade. Below grade crawlspaces are not allowed.

E. Building Design and Construction

Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to Section R324 of the Residential Specialty Code and Section 1612 of the Structural Specialty Code.

(1) In All Areas Of Special Flood Hazards,

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(b) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(c) New construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(d) 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. HVAC, electrical and/or mechanical systems shall be located at least 1' above the Base Flood Elevation.

(Ordinance 612 § (5), 2019)

(2) Specific Building Design and Construction Standards for Residential Construction (A Zones).

In addition to Paragraphs (1) of this Section,

(a) New construction and substantial improvement of residential structures located in non-coastal flood zones shall have the lowest floor, including basement, elevated a minimum of two feet above the Base Flood Elevation or three feet above the highest adjacent grade where no BFE is defined, and;

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or 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 be 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 square inch for every square foot of enclosed area subject to flooding shall be provided;

ii. The bottom of all openings shall be no higher than one foot above grade, and;

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.

(3) Specific Building Design and Construction Standards for Non-residential Construction.

In addition to Paragraph (1) of this Section, new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated according to Table 2-1 the American Society of Civil Engineers, Flood Resistant Design and Construction Standard (ASCE 24); 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 substantial impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator;

(d) Nonresidential structures that are elevated, not flood-proofed, must meet residential standards described in Section 6.E(2).

(e) Applicants flood-proofing nonresidential buildings shall be notified that the flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level will be rated as one foot below.)

(4) Standards for Shallow Flooding Areas (AO Zones)

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does no exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is often characterized as sheet flow. In these areas Paragraph (1) and the following provisions shall apply:

(a) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of two feet above the depth number specified on the FIRM (at least three feet if no depth number is specified).

(b) New construction and substantial improvement of non residential structures within AO zones shall either:

i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or

ii. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect, and;

(c) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

F. Manufactured Dwellings

All new, replacement, and substantially improved manufactured dwellings are subject to the following standards:

(1) If the manufactured dwelling is supported on solid foundation walls, the ground area reserved for the placement of a manufactured dwelling shall be a minimum of 12 inches above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces 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:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be no higher than one foot above grade, and;

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) The bottom of the longitudinal chassis frame beam in A zones shall be a minimum of 12 inches above the BFE.

(3) The manufactured dwelling shall be anchored to prevent flotation collapse and lateral movement during the base flood. 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 for additional techniques), and;

(4) Electrical crossover connections shall be a minimum of 12 inches above BFE.

G. Below Grade Crawlspaces

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:

(1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in paragraph (2) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(2) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

(3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

(6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and Building Code requirements for flood hazard areas.

(7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

H. Accessory Structures

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing less than 200 square feet. Such a structure must meet the following standards:

(1) It shall not be subject to Building Codes;

(2) The accessory structure shall be located on a property, or an adjacent property with same owner, as a dwelling;

(3) It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;

(4) Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below BFE, or where no BFE is available lower than three feet above grade, unless confined in a tank installed in compliance with this ordinance;

(5) It shall be constructed of flood resistant materials;

(6) It shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

(7) It shall be firmly anchored to prevent flotation;

(8) Services such as electrical and heating equipment shall be elevated or flood-proofed to or above the Base Flood Elevation, and;

(9) It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or

(a) provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;

(c) openings may be equipped with screens, louvers, valves or other coverings or

devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

I. Recreational Vehicles

In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either:

(1) Be placed on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or

(3) Meet all the requirements of Section 6.F: Manufactured Dwellings, including the anchoring and elevation requirements.

J. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the area of special flood hazard. Construction of new critical facilities shall be permissible within the area of special flood hazard if no feasible alternative site is available. Critical facilities constructed within the areas of special flood hazard shall have the lowest floor elevated three feet above BFE (or depth number in AO zones) or to the height of the 0.2 percent (500-year) flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality 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.

K. Tanks

(1) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.

(2) Above-ground tanks in flood hazard areas shall be:

(a) Attached to and elevated to or above the Base Flood Elevation (or depth number in AO zones) on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood; or be

(b) Anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.

(3) Tank inlets, fill openings, outlets and vents shall be:

(a) A minimum of 2 feet above BFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

L. On-Site Sewage Systems

On site sewerage systems are not permitted in the City of Scio.

M. Fences and Walls

New fencing shall be designed to collapse under conditions of the base flood or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely.

N. Other Development in Non-Coastal High Hazard Areas

All development in non-coastal high hazard areas (A zones) for which specific provisions are not specified in this ordinance or Building Codes, shall:

(1) Be located and constructed to minimize flood damage;

(2) Be designed so as not to impede flow of flood waters under base flood conditions*;*

(3) If located in a floodway, meet the limitations of Section 6.C of this ordinance;

(4) Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

(5) Be constructed of flood damage-resistant materials; and

(6) Have electric service and or mechanical equipment elevated above the Base Flood Elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements.

O. Temporary Structures, Storage, and Bridges

A floodplain development permit is required for construction or placement of temporary structures, temporary storage associated with non-residential uses, and temporary bridges located in areas of special flood hazard:

(1) Temporary structures, not including bridges, shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant extensions for demonstrated cause; such cause shall reaffirm the temporary nature of the structure. Temporary structures shall be anchored to prevent flotation, collapse, or lateral movement.

(2) Temporary storage no more than 50 cubic yards shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant extensions for demonstrated cause; such cause shall reaffirm the temporary nature of the storage. Stored material shall be anchored or contained to prevent flotation or release outside the assigned storage area. Hazardous materials priority persistent pollutants identified by the Oregon Department of Environmental Quality shall not be stored in the floodway.

(3) Temporary encroachments in the floodway for the purposes of capital improvement projects (including bridges) require a floodplain development permit. No CLOMR/LOMR is required.

P. Requirement to Submit New Technical Data

(1) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to

submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(2) Applicants shall be responsible for all costs associated with obtaining a Conditional Letter of Map Amendment (CLOMR) or Letter of Map Revision from FEMA.

(3) The City of Scio shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application.

(4) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA, or whose development modifies floodplain boundaries or Base Flood Elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM.

Q. Watercourse Alterations

A water course is considered altered when any change occurs within its banks, including installation of new culverts and bridges, or size modifications to existing culverts and bridges (as shown on effective FIRM).

(1) The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.

(2) Adjacent communities, the U.S. Army Corps of Engineers, Oregon Department of State Lands, and Oregon Department of Land Conservation and Development must be notified prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator and to the Federal Emergency Management Agency.

(3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the flood carrying capacity will not be diminished.

(4) The applicant shall meet the requirements to submit technical data in Sections 6.S(1-2) when an alteration of a watercourse, including the placement of culverts, results in the relocation or elimination of the special flood hazard area.

R. Non-Conversion of Enclosed Areas below the Lowest Floor

To ensure that the areas below the BFE continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the Floodplain Administrator shall:

(1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;

(2) Enter into a "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the City of Scio**.** The agreement shall be recorded with the Linn County Clerk as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and

(3) Have the authority to inspect any area of a structure below the Base Flood Elevation to ensure compliance upon prior notice of at least 72 hours.

S. Periodic Floodplain Inspections and Enforcement Actions

(1) The Floodplain Administrator or designee shall make periodic inspections of floodplain areas to establish that development activities within the floodplain are being performed in compliance with an approved floodplain development permit. The Floodplain Administrator or designee shall prepare a field report listing non-complying conditions to be delivered to the Scio City Council. Upon receipt of the report, the Scio City Council or designee shall proceed with enforcement actions including, but not limited to: the issuance of a Stop Work Order; the issuance of a citation; and the commencement of civil legal proceedings.

(2) Within 30 days of discovery of a violation of this ordinance, the Floodplain Administrator shall submit a report to the Scio City Council which shall include all information available to the Floodplain Administrator which is pertinent to said violation. Within 30 days of receipt of this report, the Scio City Council shall:

(a) take any necessary action to effect the abatement of such violation; or

(b) issue a variance to this ordinance in accordance with the provisions of Section 7.A-C (Variance Procedures) herein; or

(c) order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the Scio City Council within 30 days of such order, and he shall submit an amended report to the Floodplain board with 20 days. At their next regularly scheduled public meeting, the governing body shall either order the abatement of said violation or they shall grant a variance in accordance with the provisions of Section 7.A-C (Variance and Appeal Procedures) herein.

(3) If a Variance cannot be granted according to Section 7, submit to the Administrator of Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited statute or local law, regulation or ordinance, pursuant to section 1316 of the National Flood Insurance Act of 1968 as amended.

SECTION 7. VARIANCE AND APPEAL PROCEDURES

A. Variance

(1) An application for a variance must be submitted to the City of Scio Manager on the form provided by the City of Scio and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.

(2) Upon receipt of a completed application for a variance, the variance request will be set for public hearing at the next Scio Planning Commission/City Council meeting in which time is available for the matter to be heard.

(3) Prior to the public hearing, Notice of the hearing will be published in the official newspaper of the City of Scio at least 15 days prior to the hearing. In addition to the newspaper publication, written notice shall be provided to all adjoining property owners.

(4) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

(5) In passing upon such applications, the Scio City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:

(a) danger that materials may be swept onto other lands to the injury of others;

(b) danger to life and property due to flooding or erosion damage;

(c) susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) importance of the services provided by the proposed facility to the community;

(e) necessity to the facility of a waterfront location, where applicable;

(f) availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(i) safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(k) 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.

(6) Upon consideration of the factors of Section 7.A(5) above and the purposes of this ordinance, the Scio City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(7) The floodplain administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

B. Criteria for Variances

(1) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Generally, the only condition under which a variance from the elevation standard may be issued is 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. As the lot size increases the technical justification required for issuing the variance increases.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon a:

(a) showing of good and sufficient cause;

(b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and;

(c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 7.A(5), or conflict with existing local laws or ordinances.

(5) Variances may be issued for a water dependent use provided that the

(a) criteria of paragraphs (a)(1) through (a)(4) of this section are met; and,

(b) structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(6) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.

(7) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(8) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 7.B(2) and otherwise complies with Section 7.

C. Variance Decision

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Base Flood Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

D. Appeals Provisions

The Scio Planning Commission shall be designated the authorized body to review all appeals filed by a property owner or affected citizen in reference to the following:

(1) The Scio Planning Commission shall be designated the authorized body to review all appeals filed by a property owner or affected citizen in reference to the following:

(a) A determination by the Floodplain Administrator as to the exact location of the boundaries of the Flood Insurance Rate Maps or other Base Flood Elevation data;

(b) A determination by the Floodplain Administrator not to issue a development permit pursuant to the provisions of Section 5 and Section 6 of this Ordinance.

(c) Any other determination by the Floodplain Administrator as to the provisions of this Ordinance.

(2) Notice shall be posted at City Hall and at the Post Office and published in a newspaper of general circulation in the city not less than one week prior to the public hearing.

(3) The Commission shall hold a public hearing within 63 days after a completed application is received.

(4) The Planning Commission may approve an appeal of a determination made by the Floodplain Administrator only if the following findings are made;

(a) That the Floodplain Administrator has erred in the interpretation of the Flood Insurance Rate Map boundaries or in the interpretation of the provisions of this Ordinance; or

(b) That the applicant has submitted engineering, hydrological or other studies which substantiate that the elevations found on the Flood Insurance Rate Maps are in error.

(5) A determination of the Planning Commission may be appealed by a property owner or affected citizen to the City Council within 14 days of the date of decision.

(6) Procedure for appeal of the Planning Commission decision to the City Council is as follows:

(a) An appeal filed relating to any decision rendered by the Planning Commission shall be scheduled before the Scio City Council for a public hearing.

(b) The City Council shall hold a minimum of one (1) public hearing on the matter appealed, in order to obtain testimony on the matter.

(c) The City Council shall render a final determination on the matter within 35 days of concluding the public hearing. A decision on the matter may be tabled in order to obtain additional information for up to 35 days additional with the consent of the applicant.

(7) An appeal shall stay all proceedings and furtherance of the action appealed unless the City Recorder certifies to the City Council after notice of appeal has been filed, that by reasons of facts stated in the certification, that a stay would cause imminent peril to life or property. In such cases, the proceedings and furtherance of action shall not be stayed otherwise than by order which may be granted by the City Council or by a court of competent jurisdiction.

E. Appeals Decision

The decision on appeal shall be in writing and set out the facts, technical information and the legal basis for the decision.

SECTION 8. PENALTIES FOR VIOLATION

No structure or land shall hereafter be located, extended, converted or altered unless in full compliance with the terms of this ordinance and other applicable regulations.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions 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 $500 or imprisoned for not more than 10 days, or both for each violation, and in addition shall pay all costs and expenses involved in the case. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Scio from taking such other lawful actions as is necessary to prevent or

remedy any violation.

SECTION 9. SEVERABILITY

The ordinance is hereby declared to be severable. Should any section, clause, sentence or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

SECTION 10. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, state building codes, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 11. REPEAL

Ordinance 481 enacted on July 24, 1984, Ordinance 492 enacted on May 26, 1987, and Ordinance 563 enacted on June 25, 2007, are hereby repealed in their entirety.

SECTION 12. EMERGENCY

Whereas, the City Council of the City of Scio considers it necessary that the foregoing ordinance be enacted for the protection of the public health, safety and welfare of the residents of the City of Scio, Oregon an emergency is hereby declared to exist and the Provisions of this Ordinance shall be in full force and effect from and after its passage by the City Council and its approval by the Mayor. *(Ordinance 612 § (7), 2019)*

Ordinance No. 579, enacted September 13, 2010
Ordinance No. 612, enacted February 11, 2019