

## CITY OF WHEELER, OREGON ZONING ORDINANCE

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### ARTICLE 9. FHO ZONE - FLOOD HAZARD OVERLAY

#### Section 9.010. General Provisions

1. Lands to which this Ordinance Applies.

This ordinance shall apply to all Areas of Special Flood Hazard (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the City of Wheeler.

2. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "The Flood Insurance Study for Tillamook County and Incorporated Areas" effective date September 28, 2018 and any revision thereto is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and Flood Insurance Rate Maps are on file at Wheeler City Hall.

#### Section 9.020. Purpose and Objectives.

It is the purpose of this Flood Hazard Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the City of Wheeler Comprehensive Plan and Zoning Ordinance, the specific objectives of the Flood Hazard Overlay Zone are:

1. To combine with present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the City;
2. To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;
3. To minimize the need for rescue and relief efforts associated with flooding;
4. To help maintain a stable tax base by providing for sound use and development in flood prone areas and to minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities located in flood hazard areas;
6. To ensure that potential home and business buyers are notified that property is in a flood area; and
7. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### Section 9.030. Definitions.

Unless specifically defined in this section, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in the National Flood Insurance Program (44 CFR) to give this Ordinance its most reasonable application.

1. Appeal.

Means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

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2. Area of Shallow Flooding (Flood Zone Designation AO and AH)  
A designated AO or AH Zone on the City of Wheeler, Oregon Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evidence. Such flooding characterized by ponding or sheet flow.
3. Area of Special Flood Hazard  
The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The Area of Special Flood Hazard is synonymous with Special Flood Hazard Area (SFHA). The SFHA is shown on Flood Insurance Rate Maps.
4. Base Flood  
Means the flood elevation having a one percent chance of being equaled or exceeded in any given year.
5. Base Flood Elevation (BFE)  
The water surface elevation during the base flood in relation to the specified datum.
6. Basement  
Any area of a building having its floor subgrade (below ground level) on all sides.
7. Breakaway Wall  
A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.
8. Critical Facility  
A facility necessary to protect the public health, safety and welfare during a flood and/or a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency operations or response installations, water and wastewater treatment plants, electric power stations, and installations which produce, use, or store hazardous materials or hazardous waste (other than consumer products containing hazardous substances or hazardous waste intended for household use).
9. Development.  
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 material located within the Area of Special Flood Hazard.
10. Elevated Building  
A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

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11. Explanation of Flood Zone Designations (A, AO, AH, A1-A30, A99, B, C, D)

ZONE EXPLANATION

A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
AO	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
AH	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors are determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevation and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood.
C	Areas of minimal flooding.
D	Areas of undetermined, but possible, flood hazards

12. Flood or Flooding.

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
  3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

13. Flood Insurance Rate Map (FIRM)

Means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that

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has been made available digitally is called a Digital Flood Insurance Map (DFIRM).

14. Flood Insurance Study  
Means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
15. Floodplain Administrator  
The City shall appoint a Floodplain Administrator. The Floodplain Administrator shall seek certification as a Certified Floodplain Manager from the Association of State Floodplain Managers.
16. Floodway  
Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
17. Flood Openings.  
Means fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed with flood openings to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for flood openings must either be certified by a registered professional engineer or architect or must meet or exceed the following 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.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
18. Hazard  
Something that is potentially dangerous or harmful, often the root cause of an unwanted outcome.
19. Hazard Mitigation  
Any action taken to reduce or eliminate the long-term risk to human life and property from hazards. The term is sometimes used in a stricter sense to mean cost-effective measures to reduce the potential for damage to a facility or facilities from a disaster or incident.
20. Hazardous Material (HAZMAT)  
Any substance or material that, when involved in an accident and released in sufficient quantities, poses a risk to people's health, safety, and/or property. These substances and materials include explosives, radioactive materials, flammable liquids or solids, combustible liquids or solids, poisons, oxidizers, toxins, and corrosive materials.

21. Historic Structure  
A structure that is:
- a. 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;
  - b. 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;
  - c. Individually listed on a state inventory of historic places 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 by the State Historic Preservation Office.
22. Lowest Floor  
Means the lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for the 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 to render the structure in violation of the applicable non-elevation design requirements of this Ordinance and 44 CFR 60.3.
23. Manufactured Dwelling  
A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For flood hazard regulatory purposes, the term "Manufactured Dwelling" does not include park trailers, recreational vehicles, travel trailers, and other similar vehicles.
24. Manufactured Dwelling Park or Subdivision.  
Means a parcel or contiguous parcels of land divided into two or more manufactured Dwelling lots for rent or for sale.
25. Mean Sea Level (MSL)  
Means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which the base flood elevations shown on the community's Flood Insurance Rate Maps are referenced.
26. New Construction  
For floodplain management purposes, new construction means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
27. Recreational Vehicle  
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 recreation, camping, travel, or seasonal use.

28. Start of Construction

Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other 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 dwelling 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 basement, footings, piers, or foundation 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 that alteration affects the external dimensions of the building.

29. Structure

Means, for flood management purposes, a walled and roofed building, a manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

30. Substantial Damage

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.

31. Substantial Improvement

Means any 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 term does not, however, include either:

- a. Any 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
- b. Any alterations of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

32. Variance.

Means a grant of relief by a community from the terms of a floodplain management regulation.

Section 9.040. Flood Development Permit.

1. Application for a Flood Development Permit.

A Flood Development Permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all structures including manufactured dwellings as set forth in the "Definitions" and for all development including fill and other activities, also set forth in the "Definitions". Application for a Flood Development Permit shall be made on forms furnished by the City Floodplain Administrator and shall specifically include the following information:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- b. Elevation in relation to mean sea level to which any structure has been flood-proofed.
- c. Certification by a registered professional engineer or architect that the flood-proofing method for any nonresidential structure meets the flood-proofing criteria in Section 9.050(6)(b).
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Duties and Responsibilities.

The duties of the City Floodplain Administrator shall include, but not be limited to:

a. Permit review.

1. Review development permits to determine if the proposed development qualifies as a substantial improvement, as set forth in the definitions.
2. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
3. Review all development permits to require that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
4. Review all development permits in the Area of Special Flood Hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.

b. Submit New Technical Data.

Provide notification to FEMA as a Letter of Map Revision (LOMR) within six months of project completion when:

1. An applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA; or
2. Development altered a watercourse; or
3. Development modified a floodplain boundary; or
4. Development modified Base Flood Elevations.

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c. Post Construction Verification:

Obtain prior to occupancy:

1. Lowest Floor Verification as defined in this ordinance.
2. Post Construction Flood Elevation Certificate.

d. Alteration of Watercourses.

1. Notify adjacent communities, the State Coordinating Agency, currently the Department of Land Conservation and Development, the Federal Emergency Management Agency Region X, and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse. Submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries.

The City Floodplain Administrator shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in this Ordinance.

f. Record Maintenance.

The City shall maintain in electronic format for public inspection in perpetuity all records pertaining to the provisions of this Ordinance, the issuance of a Flood Development Permit, and compliance with conditions of approval including and not limited to:

1. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures whether the structure contains a basement or not.
2. For all new or substantially improved flood-proofed structures:
  - a. Verify and record the actual elevation (in relation to mean sea level), and
  - b. Maintain flood-proofing certifications required in Section 9.040(1)(c).
  - c. Maintain for public inspection all records pertaining to the provisions of this ordinance.

### Section 9.050 Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 9.030(2), Basis for Establishing the Areas of Special Flood Hazard, the City Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer Sections 9.050(6)(a), Specific Standards, Residential Construction, and Section 9.050(6)(b), Specific Standards, Nonresidential Construction.

### Section 9.060. Provisions for Flood Hazard Reduction.

1. General Standards.



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In the Area of Special Flood Hazard (the Flood Hazard Overlay Zone) the following provisions are required:

a. Anchoring.

1. All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All manufactured dwellings 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 Dwelling Installation in Flood Hazard Areas" guidebook for additional techniques.)

b. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, mechanical 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.

c. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The City Floodplain Administrator shall notify, receive and comply with a determination of permit requirements from Oregon Department of Environmental Quality.
4. The City will neither install nor extend water service lines to any future development located within the Area of Special Flood Hazard when practicable alternative, non-flood plain sites are available. Where water service lines already exist within the flood plain areas, service may be provided as long as this action is consistent with the rest of this Ordinance.

d. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. 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

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

e. Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Maps or Flood Insurance Study or from another authoritative source (Section 9.040(3)), applications for building permits shall be reviewed by the City Floodplain Administrator 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.

2. Specific Standards.

In all Areas of Special Flood Hazard the following provisions are required:

a. Residential Construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed with flood openings. Designs for flood openings must either be certified by a registered professional engineer or architect or must meet or exceed the following criteria:

1. 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.
2. The bottom of all openings shall be no higher than one foot above grade.
3. Openings may be equipped with screens, louvers, or other coverings or devices provided they permit the automatic entry and exit of floodwaters, to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

b. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. 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, specification and plans.
4. Nonresidential structures that are elevated, not flood-proofed, must meet the residential construction standards and provide flood openings, as defined in this ordinance, for the space below the lowest floor.

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5. Applicants choosing to flood-proof nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level. For example, a building constructed to the base flood level will be rated at one foot below the required elevation.

c. Manufactured Dwellings.

All manufactured dwellings to be placed or substantially improved on all sites within the area of special flood hazard shall be elevated such that the bottom of the longitudinal chassis frame beam shall be at or above the base flood elevation and be securely anchored to an adequately designed foundation to resist flotation, collapse, and lateral movement during the base flood. Manufactured dwellings supported on solid foundation walls shall have the foundation walls constructed with flood openings, as defined in this Ordinance. Electrical crossover connections shall be a minimum of 12 inches above the Base Flood Elevation. Crossover ducts are allowed below BFE but shall be constructed to prevent floodwaters from entering or accumulating within system components. This may require engineer certification.

d. Recreational Vehicles.

Recreational Vehicles placed on sites within the Area of Special Flood Hazard are required to:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, be on their wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices and have no permanently attached additions.  
OR
3. Shall meet all permit elevation and anchoring requirements for manufactured dwellings including residential standards.

### Section 9.065. Restrictions and Prohibited Uses.

1. Restrictions.

Restrictions regarding height, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the Flood Hazard Overlay Zone.

2. Prohibited Uses.

It shall be unlawful to erect, alter, maintain or establish in an Area of Special Flood Hazard any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue consistent with the provisions of this ordinance and as provided in the Wheeler Zoning Ordinance.

### Section 9.070. Variances.

1. Variances may be issued by the City in accordance with Section 60.6(b) of the Federal Regulations governing flood insurance (Title 44 CFR) and any amendment thereto, together with the Wheeler

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### Zoning Ordinance.

- a. The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
  - b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
2. Procedures for the granting of variances by the City are as follows:
- a. Variances may be issued for new construction and substantial improvements to be erected on a lot on-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. While the granting of variances is generally limited to lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the required technical justification for issuing a variance increase.
  - b. Variance procedures are governed by the Wheeler Zoning Ordinance and the Wheeler Planning Commission Bylaws.
  - c. Variances shall only be issued by the City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use where the City adopts findings that support:
    1. All criteria in the Variance section of the Wheeler Zoning Ordinance.
    2. A determination that failure to grant the variance would result exceptional hardship to the applicant.
    3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or conflict with existing local laws or ordinances.
    4. A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.
    5. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
  - d. Variances shall not be issued within any regulatory floodway if any increase would result in flood levels during the base flood discharge would result.
  - e. The City shall provide written notice to property owners as required under the Wheeler Zoning

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- e. The City shall notify the applicant in writing that:
- f.
  - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance.
  - 2. Such construction below the base flood level increases risks to life and property.
- g. The Planning Commission shall review the applicant's burden of proof and shall approve or disapprove a request in accordance with the Wheeler Planning Commission Bylaws.
- h. The City shall:
  - 1. Maintain a record of all variance actions including justification for their issuance.
  - 2. Report such variances issued in its annual or biennial report submitted to the State Coordinating Officer and the Federal Insurance Administrator.
- 3. The Federal Insurance Administrator may review the City's findings justifying the granting of variances and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, the Federal Insurance Administrator may take appropriate action.
- 4. Authorization of a variance shall be void after six months unless the new construction, substantial improvement or approved activity has taken place. However, the Planning Commission may authorize an extension of up to in conformance with the Wheeler Zoning Ordinance and Wheeler Planning Commission Bylaws.

### Section 9.080 Appeal Procedures.

- 1. An appeal of a ruling or interpretation regarding a requirement of this Ordinance may be made to the City Council in accordance with the Wheeler Zoning Ordinance and the Wheeler Planning Commission Bylaws.
- 2. The City Council shall hear and decide appeals when it is alleged that there is an error in the interpretation, requirement, decision or determination in the enforcement or administration of this Ordinance.
- 3. The administrative procedures for hearing a variance under the provisions of this Ordinance shall be pursuant to the administrative procedures utilized by the City of Wheeler.
- 4. The City Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

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### Section 9.090 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Ordinance and other applicable regulations.

### Section 9.100. Penalties.

Any intentional or knowing violation of this Ordinance may be punished as a Class "C" misdemeanor. A violation of this Ordinance shall be considered a separate offense for each day the violation continues. Further, all other remedies are available to the City, including abatement proceedings and all penalties available under the Wheeler Zoning Ordinance.

### Section 9.110 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 on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Wheeler or by any officer or employee thereof, or the Federal Insurance and Mitigation Administration for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### Section 9.120 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, easement, covenant or deed restriction conflict or overlap, whichever imposes the most stringent restrictions shall prevail.

### Section 9.130 Severability.

The provisions of this Ordinance are severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining provisions of the Ordinance.