ORDINANCE NO._____

AN ORDINANCE RESTRICTING OPENLY CARRYING LOADED FIREARMS IN PUBLIC PLACES

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

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

WHEREAS, ORS 166.173 expressly authorizes Oregon local jurisdictions to enact ordinances to regulate, restrict or prohibit persons from possessing loaded firearms in public places, except for persons expressly exempted by statute;

WHEREAS, the City has determined, on the basis of past and recent instances of firearms-related violence in the City, the State, and the Nation, that public safety is compromised by persons without firearms permits carrying loaded firearms in public places;

WHEREAS, the Oregon Supreme Court recently has held that Article I, Section 27 of the Oregon Constitution does not preclude enactment of a provision regulating "the manner, possession, and the use of constitutionally protected arms," and permits "wide legislative latitude" to enact specific regulations restricting the possession and use of weapons to the extent such regulation of arms is necessary to promoting the public safety and does not unduly frustrate the individual right to bear arms for the purpose of self-defense;

WHEREAS, the United States Supreme Court recently opined that the Second Amendment of the U.S. Constitution does not preclude laws forbidding the carrying of firearms in sensitive public places;

WHEREAS, the Oregon Supreme Court recently has upheld a City of Portland ordinance provision restricting possession of loaded firearms in public places against the claim that the provision violated Article I, Section 27 of the Oregon Constitution and the Second Amendment of the U.S. Constitution; and
WHEREAS, in order to promote public safety the City wishes to enact a municipal code provision which restricts the carrying of loaded firearms in public places under certain conditions and which is identical to the City of Portland restriction already upheld by the Oregon Supreme Court.

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

SECTION 1. Definitions.
The following definitions govern the construction this Chapter:

A. "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

B. "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds, and premises used in connection with public passenger transportation.

SECTION 2. Possession of a Loaded Firearm in a Public Place.
It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, recklessly having failed to remove all ammunition from the firearm.

SECTION 3. Exceptions.
Section 2 does not apply to or affect the following persons:

A. A law enforcement officer in the performance of official duty.
B. A member of the military in performance of official duty.
C. A person licensed to carry a concealed handgun.
D. A person authorized to possess a loaded firearm while in or upon a public building or court facility under ORS 166.370.
E. An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a loaded firearm in the course of a lawful taking wildlife.
F. A government employee authorized or required by his or her employment or office to carry firearms.
G. A person conducting an athletic contest to fires blank ammunition in a plug firearm toward the sky.
H. A person authorized by permit of the chief of police to discharge blank ammunition or a weapon for a lawful purpose.
I. A person traveling to and from and discharging a firearm or weapon on a licensed public or private shooting range, shooting gallery or other approved area designed or built for the purpose of target shooting, when such person is a member or guest of said range or area.
J. A person transporting firearms in a lockable, enclosed vehicle.

SECTION 4. Penalties.
Violation of this Chapter is a Class A misdemeanor.
SECTION 5. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

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

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the _____day of ________________, 2014, and duly PASSED and ADOPTED this _____ day of ________________, 2014.

_____________________________________
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ___ day of __________, 2014.

_____________________________________
John Stromberg, Mayor

Reviewed as to form:

_____________________________________
David H. Lohman, City Attorney