

Council Business Meeting

October 20, 2020

Agenda Item	First Reading of Ordinance No. 3192 amending the Ashland Municipal Code to reflect 2020 Charter amendments creating the office of City Manager	
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SUMMARY

This is the time set for First Reading of proposed Ordinance No. 3192 amending the Ashland Municipal Code to reflect Ashland City Charter (the “Charter”) amendments approved by the voters in May of 2020. These Charter amendments create the new office of City Manager and establish the City Manager as the chief executive and administrative head of the City of Ashland. The new City Manager would replace the current position of City Administrator.

POLICIES, PLANS & GOALS SUPPORTED

N/A

PREVIOUS COUNCIL ACTION

N/A

BACKGROUND AND ADDITIONAL INFORMATION

In May of 2020, the citizens of Ashland approved several amendments to the Charter. These amendments created a new executive officer for the City in the form of a City Manager and revised the powers and duties of the Mayor. The new City Manager would replace the current position of City Administrator. The Charter amendments become effective on January 1, 2021.

Proposed Ordinance No. 3192 is designed to reflect the changes to City of Ashland government made by the Charter amendments. Ordinance No. 3192 amends those sections throughout the Ashland Municipal Code (the “AMC”) that refer to the City Administrator. Most of the changes are housekeeping, as the Charter amendments themselves contain most of the substantive changes to City government. As it contains various AMC sections, Proposed Ordinance No. 3192 makes other housekeeping changes to reflect current practices within the City, e.g. in Section 12, the Director of Finance and Administrative Services is replaced with the Director of Public Works. This change reflects the current organization of the City. The ordinance also proposes to delete AMC 9.20.040 creating a Polystyrene Foam Task Force. This task force was created in 1989 and completed its work years ago. The inclusion of the task force in the AMC is no longer needed. No other sections of the AMC are proposed to be deleted.

FISCAL IMPACTS

N/A

STAFF RECOMMENDATION

Staff recommends that the City Council approve First Reading of Ordinance No. 3192 and advance it to Second Reading for enactment.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

- 1) I move to approve First Reading of Ordinance No. 3192 and advance it to Second Reading for enactment.
- 2) I move to amend Ordinance No. 3192 as follows . . .

REFERENCES & ATTACHMENTS

Attachment 1: Proposed Ordinance No. 3192

1 Finance Director or designees, City Community Development Director or designees, City Parks
2 Director or designees, City Electric **Department Utility** Director or designees, City Recorder or
3 designees, code compliance officers, code enforcement employees with an approved job
4 description which includes code compliance or enforcement, including but not limited to, the
5 Building Official and designees, **the** Fire Marshal and designees, **the Code Compliance**
6 **Specialist**, and community service officers.

7 B. General Powers and Duties of Code Compliance Officers. Code Compliance Officers are
8 authorized to enforce any and all the provisions of the Ashland Municipal Code and for such
9 purposes shall have all such law enforcement authority as may be granted to such enforcement
10 officers by charter, ordinance and general law.

11 C. Right of Entry/ Warrant. When it may be necessary to inspect to enforce the provisions of
12 this code, or the Code Compliance Officer has reasonable cause to believe that there exists in a
13 building or upon a premises a condition which is contrary to, in violation of this code or which
14 otherwise makes the building or premises unsafe, dangerous or hazardous, the Code Compliance
15 Officer, in accordance with administrative policy, may enter said building or premises at
16 reasonable times to inspect or to perform the duties imposed by this code; provided, that if such
17 building or premises be occupied that credentials be presented to the occupant and entry
18 requested. If such building or premises be unoccupied, the Code Compliance Officer shall first
19 make a reasonable effort to locate the owner or other person having charge or control of the
20 building or premises and request entry. If entry is refused, the Code Compliance Officer shall
21 have recourse to the remedies provided by law to secure entry, including but not limited to **an**
22 Administrative Search Warrant.

23 D. Citation. City Police Officers and Code Compliance Officers are empowered to investigate
24 and enforce all violations of City ordinances. For criminal offenses created by City ordinance,
25 any City police officer may make an arrest consistent with the criminal laws of the State of
26 Oregon or may issue and serve a citation in lieu of arrest as authorized by ORS 133.070. For the
27 violation offenses created by City Ordinance or Charter, any City police officer and any City
28 Code Compliance Officer may issue and serve a citation which shall be in the nature of a notice
29 to appear citation and complaint, at a time and place certain, in the form and manner specified in
30 ORS Chapter 153 and this **Ashland Municipal** Code. A Police Officer or Code Compliance

1 Officer is expressly authorized by law to issue a citation to a person for a violation created by
2 City ordinance if the officer personally witnessed the violation or the officer has probable cause
3 to believe that the person has committed a city ordinance offense. As authorized in
4 ORS 153.058(7), the City hereby elects not to allow privately initiated violations for city charter
5 and city ordinance offenses. Notwithstanding the above, parking citations may be issued by
6 authorized City parking enforcement contractors. No person shall cancel or solicit the
7 cancellation of a citation without the approval of the municipal judge.

8 E. Service; Service by Mail and Failure to Receive Notice; Default.

9 1. Service on individuals may be made by Code Compliance Officers or any authorized
10 agent of the City by any of the following means:

11 a. Service may be made by mailing the summons and complaint by restricted or
12 unrestricted certified or registered U. S. mail, return receipt requested. For purposes of
13 computing any time period prescribed by this section ordinance, service by mail shall be
14 complete three (3) days after such mailing if the address to which it was mailed is within
15 the State, and seven (7) days after mailing if the address to which it is mailed is outside
16 the State;

17 ~~b.~~—No default shall be entered against any responsible party served by mail under this
18 section who has not either received or rejected the registered or certified letter containing
19 a copy of the summons and complaint, unless otherwise authorized by the municipal
20 judge based upon service procedures of the Oregon Rules of Civil Procedure.

21 **b e.** Service may be made by delivering the summons and complaint directly to the
22 person to be served.

23 **c d.** Substituted service may be made by delivering a copy of the summons and
24 complaint at the dwelling house or usual place of abode of the person to be served, to any
25 person over fourteen (14) years of age residing in the dwelling house or usual place of
26 abode of the person to be served. Where substituted service is used, the Code Compliance
27 Officer, as soon as reasonably possible, shall cause to be mailed a true copy of the
28 summons and complaint to the responsible party at the responsible party's dwelling house
29 or usual place of abode, together with a statement of the date, time, and place at which
30 substituted service was made. For the purpose of computing any period of time

1 prescribed or allowed by this **section ordinance**, substituted service shall be complete
2 upon mailing.

3 **d e.** If the person to be served maintains an office for the conduct of business, office
4 service may be made by leaving a true copy of the summons and complaint at such office
5 during normal working hours with the person who is apparently in charge. Where office
6 service is used, the code compliance officer, as soon as reasonably possible, shall cause
7 to be mailed a true copy of the summons and complaint to the responsible party at the
8 responsible party's dwelling house or usual place of abode or the responsible party's
9 place of business or such other place under the circumstances that is most reasonably
10 calculated to apprise the responsible party of the existence and dependency of the action,
11 together with a statement of the date, time, and place at which office service was made.
12 For the purpose of computing any period of time prescribed or allowed by this **section**
13 **ordinance**, office service shall be complete upon such mailing.

14 2. Service on particular responsible parties; minors, incapacitated persons, corporations,
15 limited partnerships, the State, other public bodies, general partnerships and other entities,
16 shall be on the persons named in the Oregon Rules of Civil Procedure.

17 F. Default/Criminal Charges/Warrant/Presumptive Arrest.

18 1. Failure to appear on a violation citation may result in a default judgment, criminal
19 prosecution for failure to appear [~~See ORS 153.992, ORS 133.076~~], a Court order to show
20 cause for Contempt, as well as issuance of an arrest warrant.

21 2. Notwithstanding Subsection F.1 above, court appearance is mandatory for the following
22 violations occurring within an Enhanced Law Enforcement Area as provided in AMC
23 10.120.020:

- 24 a. AMC 9.08.110 – Scattering Rubbish;
- 25 b. AMC 9.08.170 – Unnecessary noise;
- 26 c. AMC 9.16.010 – Dogs-Control Required;
- 27 d. AMC 10.40.030 – Consumption of Alcohol in Public;
- 28 e. AMC 10.40.040 – Open Container of Alcohol in Public;
- 29 f. AMC 9.16.015 – Dog License Required; or
- 30 g. ORS 475B.381 – Use of marijuana **item** in public place prohibited.

1 G. Warnings. City Police Officers and Code Compliance Officers may issue a warning notice
2 for any noncriminal violation of the Ashland Municipal Code, provided the Code does not
3 prohibit a warning. Warning notices generally provide a brief description of the violation, the
4 name of the City department to contact regarding the abatement of the violation, the name of the
5 person issuing the warning notice, the date the warning was issued, and a statement that failure to
6 correct the alleged violation or to contact the named department contact within ten (10) days may
7 result in issuance of a citation to the municipal court as well as other enforcement proceedings.
8 The warning notice shall be served upon the person or entity accused of the violation and a copy
9 placed in the enforcement file. Nothing in this section shall be construed to require a warning
10 notice be given to any defendant prior to issuing a citation or taking any other enforcement or
11 abatement action.

12 H. Personal appearance when abatement of violation required. Notwithstanding the appearance
13 options of ORS 153.061, when the City ordinance offense alleged involves a continuing
14 violation, a personal appearance on the citation shall be required. The violation citation itself,
15 this chapter, the bail schedule, or Court order may specify offenses or classes of offenses which
16 require a personal appearance.

17 **SECTION 2.** Ashland Municipal Code 2.04.020 is hereby amended as follows:

18 **2.04.020 Meetings**

19 A. Regular Meetings. The regular sessions of the Council are on the first and third Tuesday of
20 each month unless otherwise arranged, beginning at 6:00 p.m. Meetings are required to end no
21 later than 9:30 p.m., except in the following circumstance:

- 22 1. If a motion or any amendment to a motion has been made and has been seconded if a
23 second is required, deliberation on the motion shall be allowed to continue until no later than
24 9:40 p.m., at which time deliberation shall end; and any amendments to the motion and the
25 motion itself shall be voted upon immediately and without further deliberation or debate and
26 without passage of a motion to end debate.

27 B. Special Meetings. A special meeting may be called either by the Mayor or two members of
28 the Council. Notice of the time and place of such special meeting and the subjects to be acted
29 upon shall be delivered to all members of the Council at least **seventy-two (72)** hours in advance
30 of the time of the meeting, except in the case of an emergency, and the Council may consider and

1 act only upon such matters as contained in the notice.

2 C. Study Sessions.

3 1. Study sessions are for Council members to receive background information and
4 recommendations from staff or invitees with expertise on City business; to ask questions,
5 discuss options, express their individual views on matters that may be voted on in subsequent
6 regular or special meetings; and to provide guidance to staff. The Council may vote in study
7 sessions on guidance to staff concerning matters to be presented to Council for decision at
8 subsequent meetings. By consensus, the Council also may direct staff to take action on other
9 matters that do not require Council decision by ordinance or resolution. No particular cases
10 involving quasi-judicial decisions may be discussed at study sessions.

11 2. Each study session shall include up to a total of **fifteen** (15) minutes for public forum, in
12 which persons may speak about any topic on the agenda for that study session. Persons
13 wishing to speak during public forum are to submit a “speaker request form” to the City
14 Recorder.

15 3. Study sessions shall begin at 5:30 p.m. on the day before each regular meeting unless
16 otherwise arranged, but shall not be held on national holidays. The Mayor or two **(2)**
17 Councilors may call a study session at any time with **not less than seventy-two (72)** hours’
18 advance notice.

19 D. Executive Sessions.

20 1. All meetings of the City Council shall be held in open sessions, except meetings that may
21 be closed for those purposes specified in the Oregon Public Meetings Law (ORS 192.610 to
22 192.690). These purposes include, but are not limited to, the employment and dismissal of
23 public employees, the performance evaluation of the City ~~Manager Administrator~~ and City
24 Attorney, labor negotiations, real property transaction negotiations, and consulting with legal
25 counsel on pending or threatened litigation. At any time during an executive session, a
26 Councilor who feels a matter under consideration should be addressed exclusively in open
27 session may state a point of order, which shall be ruled upon in the executive session as set
28 forth in AMC 2.04.040.C.4.b.(1).

29 2. Notice of executive sessions shall be given as required by State law and such notice must
30 state the specific provision of law authorizing the session. The Mayor and City Councilors

1 will act in accordance with State law regarding confidentiality of information discussed in
2 Executive Sessions.

3 3. At the commencement of each executive session, the presiding officer must state on the
4 record that executive session information is confidential and may not be reported. The
5 proceedings may be reported if no such statement is made.

6 E. Emergency Meetings. The City ~~Manager Administrator~~ is responsible for implementation
7 of the Emergency Management Plan. When the City ~~Manager Administrator~~ determines that a
8 state of emergency exists, the ~~City Manager administrator~~ will make a declaration to that
9 effect and will request that the Mayor ~~to~~ call an emergency meeting of the Council in order to
10 ratify the declaration of emergency. The emergency meeting of the Council will occur as soon as
11 possible after the declaration of emergency. A quorum of the Council may not be possible due to
12 emergency circumstances and is not required for this emergency meeting. Notwithstanding the
13 advance notice requirements in subsections B, D and F of this section, notice of the emergency
14 meeting can be made in the most expedient manner as determined by the ~~City Manager Mayor~~
15 and need not be seventy-two (72) hours in advance, but notice of the emergency special meeting
16 must be given at least twenty-four (24) hours in advance if feasible. In any case, minutes of any
17 emergency meeting must meet the requirements of ORS 192.640(3) and ORS 192.650.

18 F. Notice of Meetings. Advance notice of at least seventy-two (72) hours shall be provided for
19 all meetings, except for emergency meetings. Notice shall be sent to a newspaper with general
20 local circulation and posted prominently on the City's website. In the case of an emergency or
21 when a state of emergency has been declared, public notice appropriate to the circumstances
22 shall be provided and reasons justifying the lack of seventy-two (72)-hour notice shall be
23 included in the minutes of such meeting.

24 **SECTION 3.** Ashland Municipal Code 2.04.030 is hereby amended as follows:

25 **2.04.030 Agendas**

26 The City ~~Manager Administrator~~ is responsible for the preparation of the Council agenda.

27 A. Agenda Guidelines for Regular Meetings. Topics will be added to a Council agenda based
28 on timeliness of the topic and with consideration of the number of items already scheduled for
29 the Council. Matters to be considered by the Council shall be placed on an agenda to be prepared
30 by the City ~~Manager Administrator~~ from the following:

- 1 1. All items considered by the Council during Study Sessions, which require a subsequent
2 Council vote.
- 3 2. All items which are required by law or policy to be presented to the Council.
- 4 3. All other items that the City ~~Manager Administrator~~, City Attorney, or Mayor present to
5 the Council for action or information.
- 6 4. Items placed on the agenda in accordance with Subsections B ~~or and~~ Subsection C of this
7 section.
- 8 5. Requests of City Boards, Commissions, and Committees.

9 B. Agenda Additions by Councilors.

10 1. A Councilor may place any item on the Council’s business meeting agenda; provided, that
11 another member of the Council acknowledges concurrence with the addition and that
12 preparing the matter for Council consideration does not require more than two (2) hours of
13 staff time, including policy research and document drafting. A proposed addition for the
14 agenda of a particular upcoming business meeting must be delivered to the City Manager
15 ~~Administrator~~ no later than noon of the Wednesday prior to that Council meeting. The City
16 Manager Administrator shall determine the order of business of the item. The Mayor may
17 defer the item until a later meeting if the agenda of a particular meeting is already lengthy or
18 if, in the Mayor’s sole judgment, the matter is not time-sensitive, but in no case shall the
19 Mayor defer the item to an agenda that is more than three (3) months beyond the date
20 requested by the Council members submitting the item. Council members will endeavor to
21 have subjects and any materials they wish considered submitted prior to finalization of the
22 Council packet.

23 2. A Councilor who wants to add to the Council’s agenda an item requiring more than two
24 (2) hours of preparation by staff, including policy research and document drafting, should
25 first propose the addition at a Regular Meeting under Other Business from Council members
26 or at a Study Session. The Council should consider such additions to the Council agenda in
27 light of City priorities, including adopted City Council Goals, and workload. The Council
28 must agree to proceed with an issue or ordinance before staff time is spent preparing the
29 matter for Council action. The Councilor may present information or a position paper or ask
30 for a department report or committee recommendation. Councilors who agree that staff time

1 can be spent on a particular item are not bound to support the issue when it comes before the
2 Council for a vote.

3 C. During a Meeting. A topic may be added to the agenda by a majority vote of the Councilors
4 present. Generally these items should be limited to items of timeliness or emergencies. Advance
5 notice of executive sessions, however, must be given as required by State law.

6 D. Postponing Agenda Items Before Consideration.

7 1. If a Councilor will be absent from an upcoming Regular Meeting, the Councilor may
8 request during a Regular Meeting that consideration of an agenda item be postponed to a
9 future Regular Meeting. The request will be honored if the majority of the Council votes in
10 favor of postponement and the matter is not time-sensitive.

11 2. If the request to postpone is made outside a regular Council meeting, the Councilor
12 requesting the postponement shall submit a request to the Mayor or City **Manager**
13 **Administrator** in writing or by email as early as possible. The request to postpone will be
14 honored unless the majority of the Council at the public meeting votes not to postpone the
15 item or if the matter is time-sensitive.

16 3. If time expires before the City Council can consider an item on the agenda including an
17 advertised item, the unaddressed item shall automatically be continued to the next scheduled
18 Regular Meeting or Study Session; re-advertisement shall not be required for such continued
19 items. A note shall be placed on the Agenda referencing this continuance rule: "Items on the
20 Agenda not considered due to time constraints are automatically continued to the next
21 scheduled Regular Meeting or Study Session of the Council. AMC 2.04.030.**DE**."

22 E. Council Packets. Written materials, from Councilors, staff and citizens, which are related to
23 agenda items to be included in the Council packet, must be submitted to the City **Manager's**
24 **Administrator's** office no later than 12:00 noon, six **(6)** days in advance of the Council meeting
25 for which it is intended. Materials submitted must include author's name and address.

26 F. Study Session Agenda Preparation. The City **Manager Administrator shall prepare**
27 **prepares** the agenda for the Study Sessions from:

- 28 1. Items requested by the Mayor and members of the Council to be listed on the agenda.
- 29 2. Items deemed appropriate by the City **Manager Administrator**.
- 30 3. Business from the Council pertaining to committee reports and other business.

1 4. Items requested by City Commissions, Committees or Boards.

2 G. Time Limits. Items appearing on the Council Study Session agenda shall be assigned a time
3 limit, and the Mayor shall hold discussion to within the time frame, unless the consensus of the
4 Council is to extend the time limit until an issue or item is discussed and resolved.

5 **SECTION 4.** Ashland Municipal Code AMC 2.04.040 is hereby amended as follows:

6 **AMC 2.04.040 Conduct of Meetings**

7 A. Quorum. As provided in Article VIII, Section 4 of the City Charter, four **(4)** Councilors, or
8 the Mayor and not less than three **(3)** Councilors constitute a quorum. If the Council members
9 present do not constitute a quorum, the members present may adjourn or a majority of the
10 members in attendance may direct staff to notify the absent members, except those known to be
11 unavoidably detained, that their presence is required to enable the Council to proceed with
12 business.

13 B. Attendance by Electronic Communication. Except in the event of a suspension of rules
14 pursuant to AMC 2.04.010.E, members of the City Council may not attend or vote at public
15 meetings by means of telephone or other electronic communication. The rules on meeting
16 procedures and Council actions shall otherwise remain in effect notwithstanding any such
17 suspension of rules to allow for attendance by electronic communication.

18 C. Council Deliberation.

19 1. Presiding Officer. The Mayor, or in the Mayor's absence, the Chair of the Council, shall
20 be the presiding officer at the meetings of the City Council. In the absence of these officers at
21 any meeting, the Councilors present shall appoint a Chair Pro-Tem to serve temporarily as
22 presiding officer and proceed with the meeting. The presiding officer may not vote on
23 appeals from decisions made while acting as presiding officer. The Chair of the Council or
24 Chair Pro-Tem may vote on all other motions, but the Mayor may vote only as provided in
25 ~~City Charter~~ Article **IV 4**, Section 3 **of the City Charter**.

26 2. Deliberation Rules. The presiding officer shall ensure that each Council member has the
27 opportunity to speak on each issue before the Council. Councilors must ask the presiding
28 officer to be recognized. Unless otherwise permitted by the presiding officer, no member
29 may speak more than once on an issue and may do so only after every other member has
30 spoken on or declined to address the issue. Time limits may be set on topics by the presiding

1 officer or by a consensus of the Council. Council members, as well as members of the public
2 speaking on Council agenda items, shall confine their remarks to the question under
3 deliberation, avoid redundancy, speak only for themselves, and make no negative personal
4 remarks or comments about the motives or personal traits of others.

5 3. Decorum. The presiding officer shall be responsible for ensuring order and decorum is
6 maintained. Except by permission of the presiding officer, a Councilor shall address any
7 remarks to the Council, and not to the audience. Any person's failure to abide by the
8 presiding officer's instructions constitutes "disruption of a lawful assembly" as provided in
9 ORS 166.025(1)(c) and may be cause for the presiding officer, or a majority of the
10 Councilors, to direct a city official to remove the person from a Council meeting. Disruptive
11 behavior includes engaging in violent, intimidating or distracting actions or gestures, making
12 loud or disruptive noise, using loud or disruptive profane language, making negative personal
13 remarks or comments about the motives or personal traits of others, and refusing to obey an
14 order of the presiding officer. Signs are not permitted and will be considered disruptive. A
15 direction or order of the presiding officer may be challenged by a point of order as set forth
16 in AMC 2.04.040.C.4.b.(1).

17 4. Motions and Permissible Intervening Actions.

18 a. Councilor Actions during Debate. No motion or intervening action shall be received or
19 recognized by the presiding officer when a question is under debate, except for the ten
20 secondary motions and intervening actions listed below. The disposition of any motion or
21 action listed below must occur before consideration of any other action lower on the list.

22 (1) Point of order, request for information, or objection to consideration of a matter

23 (2) Motion to adjourn

24 (3) Withdrawal of a motion

25 (4) Motion to lay the matter on the table

26 (5) Motion to divide a motion under debate

27 (6) Motion to refer

28 (7) Motion to call for the previous question

29 (8) Motion to postpone to a certain time

30 (9) Motion to postpone indefinitely

1 (10) Motion to amend

2 b. Permissible Intervening Actions While a Speaker Has the Floor.

3 (1) Point of Order. Any member may interrupt a speaker who has the floor to raise a
4 point of order if meeting protocol appears to have been broken. The point of order
5 must be addressed to the presiding officer and may not be addressed directly to the
6 speaker. The speaker must immediately cease speaking, and the issue identified in the
7 point of order must be resolved before business continues. No second is required, and
8 no debate is allowed on the point of order. The presiding officer may seek
9 clarification on the point of order from its maker, from the speaker who had the floor
10 when it was made, or from the Parliamentarian. Before proceeding further, the
11 presiding officer must sustain or overrule the point of order or submit it to Council
12 decision by majority vote with no debate. A member who disagrees with the presiding
13 officer's decision to sustain or overrule a point of order may move immediately
14 following a ruling by the presiding officer to overturn it. The motion to overturn a
15 ruling on a point of order may not be debated, and the presiding officer may not vote
16 on it. Approval of the motion requires a majority of affirmative votes; the motion
17 fails in the event of a tie vote.

18 (2) Request for Information. Any member may interrupt a speaker who has the floor
19 to seek permission to make a request for information from the speaker or from staff or
20 invitees with expertise on the subject under discussion. The request must be
21 addressed to the presiding officer and may not be addressed directly to the speaker.
22 The speaker must discontinue speaking until the request for information has been
23 denied or satisfied. No second is required, and no colloquy is allowed on the request
24 for information, except to the extent specifically set forth herein. The information
25 sought must concern either the subject under discussion or meeting procedure rules.
26 The presiding officer may ask the requestor for a statement of the nature of the
27 information sought. Neither a request for information nor a statement of the nature of
28 the information sought may contain statements of fact unless they are necessary to
29 make the request intelligible and must not contain arguments. Upon inquiry from the
30 presiding officer, the person who had the floor when the request for information was

1 made has sole discretion whether to temporarily relinquish the floor to allow the
2 requested information to be provided. An objection to apparently superfluous requests
3 for information may be made through a point of order.

4 (3) Objection to Consideration of a Matter. A member who contends a matter about
5 to be discussed is irrelevant or for any other reason not advisable to consider, may
6 object to consideration of the matter. The objection may be made before or after
7 another member has been assigned the floor, but only if debate has not yet begun and
8 none of the motions in AMC 2.04.040.C.4.a. has been made. An objection to
9 consideration of a matter does not require a second and is not debatable or
10 amendable. Immediately after the objection is made, a vote on sustaining the
11 objection must be taken. The objection fails unless at least two-thirds of the
12 Councilors present vote to sustain it.

13 c. Main Motion. A main motion is a proposed action that brings business before the
14 Council when no other motion is pending. The actions listed in AMC 2.04.040.C.4.a.
15 may be undertaken while the main motion is pending, and, if passed, may affect the
16 Council's consideration of the main motion. A main motion requires a second, is
17 amendable and debatable, and passes upon a majority vote in favor.

18 d. Adjourn. A successful motion to adjourn terminates a meeting and transfers the
19 remaining unfinished business to the agenda of the next Regular Meeting or Study
20 Session. It requires a second, is not debatable or amendable, and passes upon a majority
21 vote in favor.

22 e. Withdrawal. A motion may be withdrawn by the mover at any time before an
23 amendment is made to it or, if no amendment is made, before a vote is taken on it.
24 Withdrawal of a motion does not require a second, and debate of a proffered withdrawal
25 is not allowed.

26 f. Motion to Lay a Matter on the Table. A motion to lay a matter on the table is a
27 proposal to suspend consideration of a main motion and all pending related motions until
28 later in the same meeting in order to deal with another matter that has come up
29 unexpectedly and which must be dealt with before the pending motion can be properly
30 addressed. A motion to lay a matter on the table requires a second, is not amendable or

1 debatable, and passes upon a majority vote. Before the meeting adjourns, a subsequent
2 nonamendable, nondebatable motion may take the matter from the table if seconded and
3 passed by a majority vote in favor. If the meeting adjourns without considering the tabled
4 item, it will be continued to the next Regular Meeting or Study Session in accordance
5 with AMC 2.04.030.E.

6 g. Division of a Motion. Any member may move to split a motion under consideration
7 into two or more independent motions that are taken up in sequence. Each new motion is
8 debated, possibly subjected to secondary motions, and voted upon before taking up the
9 next part. The mover may designate in the motion the order in which the parts are
10 considered. The motion requires a second, is amendable, is not debatable, and passes
11 upon a majority vote in favor.

12 h. Referral. A motion to refer is a proposal to refer a matter to a subcommittee or another
13 body for further study and possible recommendations to the Council. The motion requires
14 a second, is debatable and amendable, and passes upon a majority vote in favor. Any
15 proposed amendments to a main motion on the referred matter that are pending at the
16 time are also referred.

17 i. Previous Question. A motion to call the previous question is a proposal to end debate
18 on a pending motion. It precludes all amendments and debate on the pending motion until
19 it is decided. The motion to call the previous question is not debatable or amendable and
20 requires a second and a two-thirds vote in favor.

21 j. Postpone to a Certain Time. This motion is a proposal to postpone a matter to a
22 particular future meeting, requires a second, is debatable and amendable, and passes upon
23 a majority vote in favor. One function of this motion can be to continue consideration of
24 an agenda item at a designated subsequent meeting.

25 k. Postpone indefinitely. A successful motion to postpone a matter indefinitely prevents
26 action on the matter for the rest of the meeting. It must be seconded, may be debated,
27 may not be amended, and passes upon a majority vote in favor. The debate may address
28 the substance of the main motion. A successful motion to postpone a matter indefinitely
29 does not preclude consideration of the matter at a subsequent meeting if it is properly
30 added to the respective agenda.

1 l. Amendment. Any main motion and any amendment to a main motion may be amended
2 to add or omit words. A proposed amendment must be germane, must be seconded, and is
3 debatable if the motion to be amended is debatable. The amendment passes upon a
4 majority vote in favor. Other amendments may also be proposed; provided, that they do
5 not nullify the amendments already passed or attempt to amend a motion to amend a
6 motion to amend.

7 5. Restatement of Motion. Before a vote is taken on a motion, it must be restated by the
8 presiding officer or the City Recorder.

9 6. Voting

10 a. When a question or motion is put to a vote by the presiding officer, each Councilor
11 present must vote for or against the motion unless a majority of the Council excuses that
12 Councilor from so doing. Unless excused from voting, a Councilor who is present and
13 does not vote for or against the motion shall be counted as having cast a negative vote.

14 The Mayor can only vote in the case of a tie, and then is required to vote unless excused
15 from voting by a majority of the Councilors present. If the Mayor fails to vote when
16 required to do, the Mayor shall be counted as having cast a vote against the motion.

17 b. A simple majority of the quorum present determines the action on ordinance, or
18 resolution and on most motions. On questions required by City Charter, City Ordinances,
19 or applicable provisions of Robert’s Rules of Order Newly Revised to be decided by a
20 two-thirds vote of the Council, approval requires an affirmative vote of at least four **(4)**
21 Councilors.

22 7. Reconsideration. A member who voted in favor of any Council action may move for
23 reconsideration before adjournment of the meeting at which the action was approved or at the
24 next Regular Meeting, unless the item already has been approved or vetoed by the Mayor
25 pursuant to ~~City Charter~~ Article **IV 4**, Section 3 **of the City Charter**. The motion must be
26 seconded, is debatable if the action under reconsideration is debatable, is not amendable, and
27 passes upon a majority vote in favor. Any member may second a motion for reconsideration.
28 A motion to reconsider a Council action may be made only once. A vetoed item may not be
29 the subject of a motion for reconsideration.

30 **SECTION 5.** Ashland Municipal Code 2.04.050 is hereby amended as follows:

1 **2.04.050 Order of Business**

2 The Mayor’s State of the City address shall occur in January of each year.

3 The Mayor or presiding officer may change the order of business on the agenda. The usual order
4 of business will be as follows:

5 A. Roll call.

6 B. Approval of minutes of the previous meeting. If there are no corrections or objections to the
7 minutes, they shall be considered approved; otherwise, to be approved by vote. The minutes as
8 approved shall be signed by the Mayor and City Recorder.

9 C. Special presentations, proclamations and awards. This item on the agenda is used to
10 acknowledge special recognition and awards given to the City or for the Mayor to announce
11 proclamations, which serve to encourage and educate the community. Proclamations shall be
12 made and placed on the agenda at the discretion of the Mayor. Requests for recognition under
13 this agenda item should be submitted in writing to the Mayor.

14 D. Public Forum.

15 1. Public forum is to precede the consent agenda unless public forum is moved to later in the
16 agenda of a particular meeting by decision of the Mayor or presiding officer or by temporary
17 suspension of the rules pursuant to AMC Section 2.04.010.E.

18 2. Members of the public may speak during public forum about any topic not on the agenda
19 for the same meeting. The agenda for public forum is fifteen (15) minutes, unless a majority
20 of the Council votes to extend the time. On behalf of the City, any Councilor may request
21 that any matter discussed during public forum be placed on a future Council agenda.

22 3. Public forum is not to be used to provide or gather additional testimony or information on
23 a quasi-judicial matter. Public testimony will not be accepted on a matter subject to a public
24 hearing where the record has been closed if the matter is still pending.

25 4. Persons wishing to speak during public forum are to submit a “speaker request form”
26 prior to the commencement of the public forum and deliver the form to the City Recorder.
27 The Mayor or presiding officer is to inform the audience on requirements for submission of
28 the form. When possible and feasible, preference will be given the individuals who reside
29 within the City limits of Ashland. Persons who do not reside in the City may be placed at the
30 end of the list of those wishing to speak at public forum.

1 E. Consent agenda. Routine business items may be listed by the City ~~Manager~~ **Administrator**
2 under this item, which shall be acted upon in its entirety, except that the Mayor or any member
3 of the Council may request that any item be moved to the regular agenda under the appropriate
4 section of business.

5 F. Public Hearings.

6 1. Public hearings shall conclude at 8:00 p.m. and be continued to a future date to be set by
7 the Council, unless the Council, by a two-thirds vote of those present, extends the hearing(s)
8 until up to 9:30 p.m. at which time the Council shall set a date for continuance and shall
9 proceed with the balance of the agenda.

10 2. Not more than two (2) land-use appeal hearings shall be scheduled for any regular
11 meeting of the Council. The City ~~Manager~~ **Administrator** may, in the City Manager's
12 ~~administrator's~~ discretion, schedule additional legislative hearings depending on the
13 anticipated length of the Council meeting.

14 3. Persons wishing to speak at public hearings are to submit a "speaker request form" prior
15 to the commencement of the hearing and deliver the form to the City Recorder. The Mayor or
16 presiding officer is to inform the audience of this requirement to submit the form prior to the
17 commencement of the hearing. No testimony will be accepted on public hearings that have
18 been closed.

19 G. Public Testimony on Agenda Items.

20 1. Members of the public who wish to speak on an agenda item that is not the subject of a
21 public hearing at the same meeting (see subsection F. of this section regarding public hearing
22 testimony) may do so at the time set aside for that agenda item. If a member of the public or
23 a Council member has requested time to speak on a consent agenda item, the presiding
24 officer shall make time for a brief presentation by the requestor prior to the Council's vote on
25 the consent agenda.

26 2. Persons wishing to speak on an agenda item are to submit a "speaker request form" prior
27 to Council consideration of the agenda item and deliver the form to the City Recorder. The
28 Mayor or presiding officer is to inform the audience on requirements for submission of the
29 form.

30 3. The presiding officer will set time limits for people who ask to speak on agenda items. In

1 general, the time limits should be set to enable all people who wish to present testimony.
2 Time limits shall not be so short as to not allow speakers to address their topics.

3 H. Unfinished business.

4 I. New business.

5 J. Ordinances, Resolutions and Contracts.

6 1. Every ordinance is to be enacted in accordance with Article X of the City Charter. Copies
7 of the ordinance shall be e-mailed to Council members and the Mayor at least fourteen **(14)**
8 days prior to the meeting. Council members may review the ordinance and forward
9 suggestions for changes to the City Attorney for consideration. Minor changes may be
10 incorporated; substantive changes will be considered at the time of first reading. Any
11 substantive changes to the ordinance must be verbally noted at first reading. Council
12 members must submit comments to the City Attorney no later than 12:00 noon on the
13 Wednesday prior to Council meeting. Lengthy ordinances may be read by title only at
14 Council meetings if the ordinance title has been published in the local paper at least seven **(7)**
15 days in advance of the Council meeting.

16 2. Resolutions may be placed on the consent agenda and voted upon. Resolutions do not
17 require a roll-call vote.

18 3. The voting on all ordinances may be by roll-call vote and recorded in the minutes showing
19 those numbers voting for and those voting against.

20 K. Other business from Council members.

21 **SECTION 6.** Ashland Municipal Code 2.04.080 is hereby amended as follows:

22 **2.04.080 Conduct with City Employees**

23 The City Council will work with City staff in a spirit of teamwork and mutual cooperation.

24 A. Councilors may make inquiries of staff to increase their understanding of an issue or action.

25 Councilors should limit requests for information from staff to questions that may be answered
26 with minimal research. Requests that require significant staff time or resources (two hours or
27 more) should be directed to the City ~~Manager Administrator~~ and must be approved by the
28 ~~Mayor~~, City ~~Manager Administrator~~, City Attorney or by a majority vote of the City Council.

29 B. Written information given by the Mayor, Councilors, City ~~Manager Administrator~~, City
30 Attorney, or City Staff, including materials requested by individual Councilors and the Mayor,

1 generally will be distributed to all Councilors with a notation indicating who has requested that
2 the information be provided.

3 C. Individual Councilors should respect the separation between policy-making and
4 administration. Councilors shall not pressure or direct City employees in a way that could
5 contravene the will of the Council as a whole or limits the options of the council. Councilors
6 must not interfere with work performance, undermine the authority of supervisors, or prevent the
7 full Council from having access to relevant information. Notwithstanding this paragraph, nothing
8 shall hamper the Council’s ability to evaluate the performance of the City Manager
9 ~~Administrator~~ or the City Attorney.

10 D. The Mayor and council members should strive not to criticize any person in a public meeting
11 or in public electronic mail messages. The same expectation applies to City staff in the exercise
12 of their official duties. Discussions and disagreements should focus on the content of the topic at
13 hand. Nothing should limit a Councilor or staff person’s right to report wrongdoing.

14 E. Councilors with a concern about the performance of a particular staff person should express
15 that concern to the Mayor, City Manager ~~Administrator~~, City Attorney.

16 **SECTION 7.** Ashland Municipal Code 2.18.010 is hereby amended as follows:

17 **2.18.010 Established Membership**

18 The Commission is established and shall consist of nine (9) voting members including one
19 representative of the solid waste franchisee for the City; and one representative from Southern
20 Oregon University; and one representative from the Ashland School District and six (6) other
21 voting members. At least five (5) of the other members shall reside within the City. The primary
22 staff liaison shall be appointed by the City Manager ~~Administrator~~ and shall serve as Secretary
23 of the Commission. Voting members shall be appointed by the Mayor with confirmation by the
24 City Council.

25 **SECTION 8.** Ashland Municipal Code 2.28.020 is hereby amended as follows:

26 **2.28.020** City Manager ~~Administrator~~ – Executive Department created

27 ~~An A-City Executive Administrator~~ Department of the City is created, under the direct control
28 and supervision management of the City Manager ~~Administrator~~, and shall consist of the
29 City Manager ~~Administrator~~, the employees provided for by the position classification plan or
30 a position ordinance, and such other employees as the City Manager ~~Administrator~~ may assign

1 to said **Executive** Department.

2 **SECTION 9.** Ashland Municipal Code 2.28.030 is hereby amended as follows:

3 **2.28.030** City **Manager Administrator** - Duties - Generally

4 The City **Manager Administrator** shall have the duties, responsibilities, authorities, and
5 jurisdictions provided by the City Charter, the ordinances and resolutions adopted by the
6 Council, and the laws of the state wherein they relate to the administration of the City. ~~With~~
7 ~~City Council acknowledgment, the~~ The City **Manager Administrator** is **the chief executive**
8 **and administrative head of the City and is** hereby empowered to make such rules and
9 regulations for the conduct of the various **administrative** departments of the City as may be
10 deemed necessary from time to time.

11 **SECTION 10.** Ashland Municipal Code 2.28.040 is hereby amended as follows:

12 **2.28.040** City **Manager Administrator** - Administrative responsibilities

13 The City **Manager Administrator** shall have responsibility for the general administrative
14 coordination of all City departments except for those officers and employees of the **Ashland**
15 **Parks & Recreation** Department. ~~The City Administrator shall have the right to submit~~
16 ~~recommendations to the Mayor, with confirmation by the City Council, as to the~~
17 ~~appointment or dismissal of any principal officer or Department head.~~ The ~~Mayor and City~~
18 ~~Council,~~ City **Manager Administrator**, or the appropriate Department head, may directly
19 appoint or dismiss any subordinate employee.

20 **SECTION 11.** Ashland Municipal Code 2.28.045 is hereby amended as follows:

21 **2.28.045** City **Manager Administrator** - Delegated Duties

22 A. Acceptance of real property, or interest therein. Except when a public hearing before the
23 governing body is required by state or local law, the City Council hereby authorizes and
24 delegates to the City **Manager Administrator** the authority to indicate, for purposes of
25 recording in Official Deed records, the City of Ashland's acceptance of real property title or an
26 interest in real property pursuant to ORS 93.808. The City **Manager Administrator** may
27 execute an instrument conveying fee title to the City or conveying any interest in real property to
28 the City, after approval of the form by the City Attorney and approval of the description of the
29 property by the City Surveyor. City acceptance shall be in substantially the following form:

30 CITY ACCEPTANCE (ORS 93.808):

1 City of Ashland, Grantee

2 By: _____

3 City ~~Manager~~ **Administrator**

4 City of Ashland, Oregon

5 State of Oregon)

6) ss. _____, 20 __

7 Jackson County)

8
9 The foregoing instrument was acknowledged before me this _____ day of 20_____,

10 by _____, as City ~~Manager~~ **Administrator** of the City of

11 Ashland.

12
13 _____
14 Notary Public for Oregon

15 My commission expires: _____
16

17 B. Renewal of intergovernmental agreements. The City Council hereby delegates its authority to
18 renew intergovernmental agreements to the City ~~Manager~~ **Administrator** when:

- 19 1. state or local law does not require a public hearing before the governing body; and
- 20 2. the terms of the intergovernmental agreement will be modified in accordance with the
- 21 ~~agreement~~ initial agreement, or the annual costs to the City will not be more than twenty-
- 22 five percent (25%) greater than those in the initial agreement, and **all** other terms will remain
- 23 the same; and
- 24 3. the renewal is approved by the City Attorney and the department head that is affected by
- 25 the renewal.

26 C. Execute Real Property Leases. The City Council hereby delegates its authority to enter into
27 month-to-month leases of real property to the City ~~Manager~~ **Administrator**, including, but not
28 limited to, airport hangar leases, provided the written **agreement order** entering into the lease of
29 real property is approved by the City Attorney and the department head that is affected by the
30 **agreement order**. The City Council retains its authority to enter into all other real property

1 leases of any duration.

2 D. Waiver of Penalties and Interest for Late Tax Payments. The City Council hereby delegates
3 its authority to waive penalties and interest for certain late tax payments to the City **Manager**
4 **Administrator** under **only** the following circumstances:

- 5 1. the waiver of penalties and interest concerns either a tax owed under AMC **Chapter** 4.24
6 [Transient Occupancy Tax] or under AMC **Chapter** 4.34 [Food and Beverage Tax];⁵ and
- 7 2. the operator submits a report that is complete and paid in full no more than seventy-two
8 (72) hours or three **(3)** work days delinquent, whichever is longer;⁵ and
- 9 3. the operator has reported and paid all monies (including food and beverage and transient
10 occupancy tax) due to the City on or before the due date for each reporting period for the
11 each of the prior twenty-four (24) consecutive months or eight (8) consecutive quarters;⁵ and
- 12 4. the operator has not been the subject of a Food and Beverage tax or Transient Occupancy
13 tax audit where the City found the operator's record keeping, reporting or remitting deficient,
14 during the prior twenty-four (24) consecutive months or eight (8) consecutive quarters;⁵ and
- 15 5. the written order granting the waiver is approved by the City Attorney and the department
16 head that is affected by the order.

17 E. The City **Manager** **Administrator** shall biannually report to the City Council on the matters
18 executed pursuant to this chapter.

19 **SECTION 12.** Ashland Municipal Code 2.28.060 is hereby amended as follows:

20 **2.28.060 Cemetery Department – Created**

21 A Cemetery Department is hereby created which is under the direction of the Director of **Public**
22 **Works Finance and Administrative Services**, and consists of such employees authorized by
23 the position classification plan or City budget, and such other employees as the City **Manager**
24 **Administrator** may assign to said Department.

25 **SECTION 13.** Ashland Municipal Code 2.28.080 is hereby amended as follows:

26 **2.28.080 Electric Utilities Department – Created**

27 An Electric **Utilities** Department is **hereby** created which is under the direction of the Director
28 of **the** Electric **Department Utilities**, and consists of such employees authorized by the position
29 classification plan or City budget, and such other employees as the City **Manager**
30 **Administrator** may assign to said Department.

1 **SECTION 14.** Ashland Municipal Code 2.28.090 is hereby amended as follows:

2 **2.28.090 Electric ~~Utilites~~ Department – Director**

3 The Director of ~~the~~ Electric **Department Utilities**, subject to the approval of the City **Manager**
4 **Administrator** and City Council, shall organize and maintain such divisions in said Department
5 as the operation may, in the judgment of the Director, require. The Director of ~~the~~ Electric
6 **Department Utilities** shall be responsible for the general supervision and control of all divisions
7 of said Department and for the performance of the functions herein assigned to said Department.

8 **SECTION 15.** Ashland Municipal Code 2.28.110 is hereby amended as follows:

9 **2.28.110 Finance Department – Created [Editorially altered per request of the City**
10 **Attorney dated 9/5/73 (Exhibit D); prior ordinance history: Ordinance 1399**
11 **§10, §11, and §12]**

12 A Finance Department is **hereby** created which is under the direction of the Director of Finance,
13 and consists of such employees authorized by the position classification plan or City budget, and
14 such other employees as the City **Manager Administrator** may assign to said Department.

15 **SECTION 16.** Ashland Municipal Code 2.28.120 is hereby amended as follows:

16 **2.28.120 Finance Department – ~~Director and Administrative Services~~ – Duties**

17 The Director of Finance, subject to the approval of the City **Manager Administrator** and City
18 Council, shall organize and maintain such divisions in said Department as the operation may, in
19 the judgment of the Director, require. The Director of Finance shall be responsible for the
20 general supervision and control of all divisions of said Department and for the performance of
21 the functions herein assigned to said Department.

22 **SECTION 17.** Ashland Municipal Code 2.28.140 is hereby amended as follows:

23 **2.28.140 Fire Department - Created**

24 A Fire Department is hereby created which is under the direction of the Fire Chief, and consists
25 of such employees provided for by the position classification plan or City budget, and such other
26 employees as the City **Manager Administrator** may assign to said Department.

27 **SECTION 18.** Ashland Municipal Code 2.28.150 is hereby amended as follows:

28 **2.28.150 Fire Chief – Duties**

29 The Fire Chief, subject to the approval of the City **Manager Administrator** and City Council,
30 shall organize and maintain such divisions in said Department as the operations may, in the

1 judgment of the Fire Chief, require. The Fire Chief shall be responsible for the supervision and
2 control of all divisions of said Department and for the performance of the functions herein
3 assigned to said Department. The Fire Chief shall have control and management of all officers,
4 members, equipment, and functions of the Fire Department. The Fire Chief shall have authority
5 to adopt rules and regulations for the administration, discipline, equipment, and uniforms of
6 members and officers of the Department, fixing the powers and duties and prescribing penalties
7 for violations of any such rules and regulations and providing for their enforcement.

8 **SECTION 19.** Ashland Municipal Code 2.28.160 is hereby amended as follows:

9 **2.28.160 Fire Department - Functions**

10 The functions of the Fire Department are the prevention and extinguishment of fires; the
11 enforcement of all laws and ordinances relating to the prevention and extinguishment of fires and
12 storage, sale, and use of oils, combustible materials and explosives; the investigation of the
13 causes of all fires and the reporting of the same to the Police Department in all cases where there
14 is reason to believe that any fire is the result of a crime or that a crime has been committed in
15 connection therewith; the inspection of all hydrants, stand pipes, and other water supply systems;
16 the performance of disaster and mutual aid services in accordance with approved plans or
17 agreements; the performance of such other functions as may be assigned by the City **Manager**
18 ~~**Administrator**~~ or prescribed by ordinance of the City Council or by applicable State law.

19 **SECTION 20.** Ashland Municipal Code 2.28.180 is hereby amended as follows:

20 **2.28.180 Municipal Court Department - Created**

21 A Municipal Court Department is hereby created which is under the direction of the elected
22 Municipal Judge, and consists of such employees provided for by the position classification plan
23 or City budget, and such other employees as the City **Manager Administrator** may assign to
24 said Department.

25 **SECTION 21.** Ashland Municipal Code 2.28.200 is hereby amended as follows:

26 **2.28.200 Municipal Judge – Pro tempore**

27 The Mayor, with confirmation by the City Council, shall appoint a Municipal Judge Pro tempore,
28 who shall serve as Municipal Judge in the absence from the City of the elected Municipal Judge,
29 or due to the inability of said elected Judge to serve. The Municipal Judge shall have a right to
30 submit recommendations as to the appointment or dismissal of the Municipal Judge Pro tempore,

1 however, this shall not limit the Mayor’s power to appoint or dismiss. The Municipal Judge Pro
2 tempore shall be employed at the expense of the City upon such terms as are prescribed by the
3 Council or City ~~Manager Administrator~~.

4 **SECTION 22.** Ashland Municipal Code 2.28.220 is hereby amended as follows:

5 **2.28.220 Legal Department City Attorney - Created**

6 A Legal Department is hereby created which shall be under the direction of the City Attorney,
7 and shall consist of such employees provided for by the position classification plan or City
8 budget, and such other employees as the City ~~Manager Administrator~~ may assign to said
9 Department.

10 **SECTION 23.** Ashland Municipal Code 2.28.230 is hereby amended as follows:

11 **2.28.230 City Attorney – Duties – Legal**

12 The City Attorney shall prosecute and defend for the City all actions at law or in equity, and all
13 special proceedings for or against the City. The City Attorney shall commence any legal
14 proceedings when directed to do so by the City ~~Manager Administrator~~ or City Council, and
15 shall give legal advice, in writing, to the Mayor, the ~~City~~ Council, the City ~~Manager~~
16 ~~Administrator~~, Department heads, and Boards and Commissions when requested to do so by
17 them, upon questions of law arising in their separate Departments involving the rights and
18 liabilities of the City. The City Attorney shall not settle or dismiss any litigation for or against
19 the City or take an appeal to any appellate court unless instructed to do so by the City ~~Manager~~
20 ~~Administrator~~ or City Council.

21 **SECTION 24.** Ashland Municipal Code 2.28.240 is hereby amended as follows:

22 **2.28.240 City Attorney – Duties – Responsibilities to Council**

23 The City Attorney shall draw such ordinances, resolutions, ~~and~~ contracts, or other instruments,
24 as shall be requested by the Council or the City ~~Manager Administrator~~, and shall attend the
25 meetings of the Council when requested to do so by the Mayor, the Council or the City ~~Manager~~
26 ~~Administrator~~.

27 **SECTION 25.** Ashland Municipal Code 2.28.250 is hereby amended as follows:

28 **2.28.250 City Attorney – Substitute Counsel**

29 Whenever, in the opinion of the City Attorney, the City ~~Manager Administrator~~, or the City
30 Council, the interests of the City require it, assistant or substitute counsel may be employed at

1 the expense of the City, upon such terms as are prescribed by the Council or City Manager
2 Administrator.

3 **SECTION 26.** Ashland Municipal Code 2.28.280 is hereby amended as follows:

4 **2.28.280 Police Department - Created**

5 A Police Department is hereby created which is under the direction of the Chief of Police, and
6 consists of such employees provided for by the position classification plan or City budget, and
7 such other employees as the City Manager Administrator may assign to said Department.

8 **SECTION 27.** Ashland Municipal Code 2.28.290 is hereby amended as follows:

9 **2.28.290 Police Chief - Duties**

10 The Chief of Police, subject to the approval of the City Manager Administrator and City
11 Council, shall organize and maintain such divisions in said Department as the operations may, in
12 the judgment of the Chief, require, and shall be responsible for the supervision and control of all
13 divisions of said Department and for performance of the functions herein assigned to said
14 Department. The Chief of Police shall, in the lawful exercise of the duties of Police Chief, and
15 subject to the provisions of the City Charter, have all the powers that are now or hereafter may
16 be conferred upon sheriffs by the laws of the State, and shall be entitled to the same protection.

17 **SECTION 28.** Ashland Municipal Code 2.28.310 is hereby amended as follows:

18 **2.28.310 Police Department - Functions**

19 The functions of the Police Department are the maintenance of law and order in the City; the
20 enforcement in the City of all laws of the United States and of the State, and all ordinances of the
21 City, except when such enforcement is by such law, ordinance or charter of the City made the
22 responsibility of another officer or Department, or when such enforcement is the responsibility of
23 a State or Federal agency or officer; the administration of the City lockup and the care, custody
24 and control of prisoners; the performance of such other functions as may be assigned by the City
25 Manager Administrator or prescribed by ordinance of the Council or by applicable State law.

26 **SECTION 29.** Ashland Municipal Code 2.28.320 is hereby amended as follows:

27 **2.28.320 Public Works Department – Created**

28 A Public Works Department is hereby created which is under the direction of the Director of
29 Public Works, and consists of such employees provided for in the position classification plan or a
30 City budget, and such other employees as may be assigned by the City Manager Administrator

1 to said Department.

2 **SECTION 30.** Ashland Municipal Code 2.28.330 is hereby amended as follows:

3 **2.28.330 Public Works Director - Duties**

4 The Director of Public Works, subject to the approval of the City ~~Manager~~ **Administrator** and
5 City Council, shall organize and maintain such divisions in said Department as the operations
6 may, in the judgment of the Director, require and shall be responsible for the supervision and
7 control of all divisions of said Department and for the functions herein assigned to said
8 Department. The Director of Public Works shall be ex officio City Engineer, ex officio Street
9 Commissioner, and ex officio Water Superintendent.

10 **SECTION 31.** Ashland Municipal Code 2.28.350 is hereby amended as follows:

11 **2.28.350 Community Development Department – Created**

12 A Community Development Department is hereby created which is under the direction of the
13 Director of **Community Development Planning**, and consists of such employees provided for
14 by the position classification plan or City budget, and such other employees as the City **Manager**
15 ~~Administrator~~ may assign to said Department.

16 **SECTION 32.** Ashland Municipal Code 2.28.352 is hereby amended as follows:

17 **2.28.352 Director of Community Development Planning – Duties**

18 The Director of **Community Development Planning**, subject to the approval of the City
19 ~~Manager~~ **Administrator** and City Council, shall organize and maintain such divisions in said
20 Department as the operation may, in the judgment of the Director, require, and shall be
21 responsible for the supervision and control of all divisions of said Department and for the
22 performance of the functions herein assigned to said Department. The Director of **Community**
23 **Development Planning** shall be the ex officio Secretary to the Planning Commission, Historic
24 Commission, Economic Development Commission, and Citizens Planning Advisory Committee.

25 **SECTION 33.** Ashland Municipal Code 2.28.360 is hereby amended as follows:

26 **2.28.360 Department and Division Duties – Generally**

27 The officers and employees of the divisions and departments shall perform such other duties as
28 may be required of them by the City Charter, laws or ordinances of the City, and such other or
29 further duties as may be required from time to time by the person having direct charge of the
30 division or Department, or by the City **Manager** ~~Administrator~~, or the City Council.

1 **SECTION 34.** Ashland Municipal Code 2.30.010 is hereby amended as follows:

2 **2.30.010 Definitions**

3 ~~A. City Recorder. The person holding the position of city recorder for the City of Ashland.~~

4 ~~B. Day. Unless otherwise specified “Days” means calendar days.~~

5 **A C.** Department Head. The person holding the position of department head for any
6 department of the City of Ashland, or any agent, employee, or designee of the Department Head
7 authorized to perform the duties of the Department **Head** head by express written delegation of
8 the Department Head.

9 **B D.** Director. The person holding the position of director for any department of the City of
10 Ashland, or any agent, employee, or designee authorized to perform the duties of the director by
11 express delegation of the director.

12 **C E.** Hearings Officer. The City **Manager Administrator** or an outside party not affiliated
13 with the City of Ashland that is hired or selected by the City **Manager Administrator or City**
14 **Attorney** to conduct **a hearing on an appeal. an appeals proceeding.**

15 **SECTION 35.** Ashland Municipal Code 2.50.040 is hereby amended as follows:

16 **2.50.040 Definitions**

17 Words and phrases that are used and defined in the Model Rules and the Oregon Public
18 Contracting Code shall have the same meaning as in those statutes and rules, except for the
19 following:

20 A. “City Attorney” shall mean the Ashland City Attorney or his/her designee as specified by
21 written order.

22 B. “Department” shall mean City of Ashland instead of Oregon Department of Administrative
23 Services.

24 C. “Director” shall mean Public Contracting Officer as defined in this section instead of the
25 Director of Administrative Services.

26 D. “Findings” are the statements of fact that provide justification for a determination. Findings
27 may include, but are not limited to, information regarding operation, budget and financial data;
28 public benefits; cost savings; competition in public contracts; quality and aesthetic
29 considerations; value engineering; specialized expertise needed; public safety; market
30 conditions; technical complexity; availability; performance and funding sources.

1 E. “Finance Director” shall mean the ~~Ashland Finance~~ Director of the City’s Finance
2 Department or his/her designee as specified by written order.

3 F. “Local Contract Review Board” shall mean the Ashland City Council.

4 G. “Public Contracting Officer” means the City ~~Manager Administrator~~ or his/her designee as
5 specified by written order.

6 H. “Model Rules” means the public contracting rules adopted by the Attorney General pursuant
7 to under ORS 279A.065 ~~and adopted by AMC 2.50.030~~.

8 I. “Oregon Public Contracting Code” means ORS Chapters 279A, 279B and 279C.

9 J. “Personal services contract” means a contract with an independent contractor predominantly
10 for services that require special training or certification, skill, technical, creative, professional or
11 communication skills or talents, unique and specialized knowledge, or the exercise of judgment
12 skills, and for which the quality of the service depends on attributes that are unique to the service
13 provider. Such services include, but are not limited to, the services of architects, engineers, land
14 surveyors, attorneys, auditors and other licensed professionals, artists, designers, computer
15 programmers, performers, consultants and property managers. The Public Contracting Officer
16 shall have discretion to determine whether additional types of services not specifically mentioned
17 in this paragraph fit within the definition of personal services.

18 **SECTION 36.** Ashland Municipal Code 2.54.020 is hereby amended as follows:

19 **2.54.020 Definitions**

20 The following definitions shall apply to this chapter:

21 A. “Bid” means a competitive offer to purchase advertised Surplus Property at a price specified
22 by the bidder.

23 B. “Cash” means U.S. currency, cashier’s checks, and money orders made payable to the City of
24 Ashland.

25 C. “Employee’s Household” means all persons residing with employee.

26 D. “Employee’s Immediate Family” mean the children, step-children, parents, stepparents,
27 grandparents and spouse of employee.

28 E. “Invitation to Bid” means a competitive offer to bid on Surplus Property available for public
29 sale and is also known as a bid advertisement.

30 F. “Not-for-profit organization” means a nonprofit corporation as defined in ORS 307.130.

1 G. “Political Subdivision” means divisions or units of Oregon local government having separate
2 autonomy such as Oregon counties, cities, municipalities or other public corporate entities
3 having local governing authority.

4 H. “Purchasing Agent” means the City ~~Manager Administrator~~ or the City Manager’s ~~his or~~
5 ~~her~~ designee.

6 I. “State agency” means every state officer, board, commission, department, institution, branch
7 or agency of state government whose costs are paid wholly or in part from funds held in the State
8 Treasury, and includes the Legislative Assembly and the courts, including the officers and
9 committees of both, and the Secretary of State and the State Treasurer in the performance of the
10 duties of their constitutional offices as defined in ORS 279A.250(4).

11 J. “Surplus Property” means all personal property, vehicles and titled equipment property
12 designated as surplus for sale to state agencies, political subdivisions of the State, and private
13 not-for-profit organizations or the general public or any combination thereof.

14 **SECTION 37.** Ashland Municipal Code 2.56.025 is hereby amended as follows:

15 **2.56.025 Powers and Duties Generally**

16 The powers, duties and responsibilities of the Ashland Band Board shall be as follows:

17 A. General supervision and control over the Ashland City Band

18 B. When requested, report at least annually to the mayor and City Council regarding ~~of~~ the
19 activities of the band.

20 C. On or prior to December 15 of each year, report to City ~~Manager Administrator~~ as to the
21 activities and welfare of the band.

22 D. Determine compensation for the band director and members in accordance with the band’s
23 approved budget.

24 **SECTION 38.** Ashland Municipal Code 2.56.030 is hereby amended as follows:

25 **2.56.030 Director Appointment, Duties, Compensation**

26 A. Upon recommendation of the Band Board, the City ~~Manager Administrator~~ shall appoint a
27 band director.

28 B. The director shall:

- 29 1. Promote, organize and direct the Ashland City Band;
- 30 2. Select the musicians for the band,

1 3. Appoint a band secretary who shall keep minutes of all band board meetings, records of
2 the organization and shall particularly keep a careful and accurate record of attendance by all
3 members. The secretary shall serve at the pleasure of the director and perform such other
4 duties as may be assigned by the director.

5 4. Appoint a band librarian, who shall have charge of and shall carefully keep all the sheet
6 music now owned or hereafter acquired by band. The librarian shall keep proper and
7 complete records of all property placed in the librarian's custody and shall make a proper
8 inventory and accounting thereof at the end of the year. The librarian shall serve at the
9 pleasure of the director and perform such other duties as may be assigned by the director.

10 5. Appoint a quartermaster who shall have charge of and shall carefully keep all band
11 uniforms and other property which is now owned or may hereafter be acquired by the band.
12 The quartermaster shall serve at the pleasure of the director and perform such other duties as
13 may be assigned by the director.

14 6. Perform such other services as may be reasonably requested by the band board

15 **SECTION 39.** Ashland Municipal Code 2.62.020 is hereby amended as follows:

16 **2.62.020 Responsibilities of City Manager ~~City Administrator Responsibility~~**

17 The City **Manager administrator** is responsible for implementation of the Emergency
18 Management Plan. When the **City Manager administrator** determines that a state of emergency
19 exists, the **City Manager administrator** shall make a declaration to that effect and request the
20 mayor to call a special meeting of the Council in order to ratify the declaration of emergency.
21 The special meeting of the Council shall occur as soon as possible after the declaration of
22 emergency. Notwithstanding **AMC 2.04.020 section 2.04.110**, notice of the special meeting
23 need not be written and need not be delivered at least **seventy-two (72) 36** hours in advance.

24 **SECTION 40.** Ashland Municipal Code 2.62.030 is hereby amended as follows:

25 **2.62.030 Declaration and Ratification of Emergency**

26 A. The declaration by the City **Manager Administrator** of a state of emergency shall:

- 27 1. State the nature of the emergency.
28 2. Designate the geographical boundaries of the area subject to the emergency controls.
29 3. State the duration of time during which the area so designated shall remain an
30 emergency area.

1 4. State any special regulations imposed as a result of the state of emergency.
2 B. The ratification by the council may also authorize additional specific emergency powers for
3 the duration of the emergency period set forth in the declaration.

4 **SECTION 41.** Ashland Municipal Code 2.62.040 is hereby amended as follows:

5 **2.62.040 Authority of City Manager Administrator**

6 During a declared emergency, the City Manager Administrator shall have authority to:

7 A. Exercise, within the area designated in the proclamation, all police powers vested in the City
8 by the Oregon Constitution, city charter and city ordinances in order to reduce the vulnerability
9 of the City to loss of life, injury to persons or property and human suffering and financial loss
10 resulting from emergencies, and to provide for recovery and relief assistance for the victims of
11 emergencies.

12 B. Direct any department of the City to utilize and employ city personnel, equipment and
13 facilities for the performance of any activities designed to prevent or alleviate actual or
14 threatened damage due to the emergency, and may direct the departments to provide
15 supplemental services and equipment to federal, state or local agencies to restore any services in
16 order to provide for the health and safety of the citizens of the City.

17 C. Designate persons to coordinate the work of public and private relief agencies operating in
18 such area and exclude from such area any person or agency refusing to cooperate with and work
19 under such coordinator or to cooperate with other agencies engaged in emergency work.

20 D. Require the aid and assistance of any state or other public or quasi-public agencies in the
21 performance of duties and work attendant upon the emergency conditions in such area.

22 E. Clear or remove from publicly or privately owned land or water, debris and wreckage which
23 may threaten public health or safety, or public or private property.

24 1. In exercising this authority the City Manager administrator may:

- 25 a. Accept funds from the federal government or the State of Oregon for the purpose of
26 removing debris or wreckage from publicly or privately owned land or water.
27 b. Present to the State of Oregon unconditional authorization for removal of such debris
28 or wreckage from public and private property and, in the case of removal of
29 debris or wreckage from private property, agree to indemnify the state government
30 against any claim arising from such removal.

1 2. Whenever the City ~~Manager~~ **administrator** provides for clearance of debris or wreckage
2 pursuant to this section, employees of the City or individuals appointed by the City **Manager**
3 ~~administrator~~ are authorized to enter upon private lands or waters and perform any tasks
4 necessary to the removal or clearance operation.

5 3. Except in cases of willful misconduct, gross negligence or bad faith, any employee or
6 individual appointed by the City ~~Manager~~ **administrator** authorized to perform duties
7 necessary to the removal of debris or wreckage shall not be liable for death of or injury to
8 persons or damage to property.

9 **SECTION 42.** Ashland Municipal Code 2.62.050 is hereby amended as follows:

10 **2.62.050 Regulations of Persons and Property**

11 When a state of emergency is declared to exist and has been ratified, the City **Manager**
12 ~~administrator~~:

13 A. May order the following measures in the interest of the public health, safety, or welfare, in
14 the area designated as an emergency area:

15 1. Redirect city funds for emergency use and suspend standard city procurement
16 procedures.

17 2. Establish a curfew that fixes the hours during which all other than officially authorized
18 personnel may be upon the public streets or other public places.

19 3. Prohibit or limit the number of persons who may gather or congregate upon any public
20 street, public place, or any outdoor place.

21 4. Barricade streets and prohibit vehicular or pedestrian traffic, or regulate the traffic on
22 any public street leading to the emergency area for such distance as necessary under the
23 circumstances.

24 5. Evacuate persons.

25 6. Prohibit the sale of alcoholic beverages.

26 7. Prohibit or restrict the sale of gasoline, or other flammable liquids.

27 8. Prohibit the sale, carrying, or possession of any weapons or explosives of any kind on
28 public streets, public places, or any outdoor place.

29 9. Curtail or suspend commercial activity.

30 10. Turn off water, gas, or electricity.

1 11. Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on
2 shipments, price fixing, allocation or other means, the use, sale or distribution of food, fuel,
3 clothing and other commodities, materials, goods and services.

4 12. Close all roads and highways in such area to traffic or limit the travel on such roads to
5 such extent as the City Manager administrator deems necessary and expedient.

6 13. Order such other measures necessary for the protection of life or property, or for the
7 recovery from the emergency.

8 B. All orders issued under authority conferred by this section shall have the full force and effect
9 of law during the declaration of a state of emergency. All existing laws, ordinances, rules and
10 orders inconsistent with this chapter shall be inoperative during this period of time and to the
11 extent such inconsistencies exist.

12 **SECTION 43.** Ashland Municipal Code 2.62.060 is hereby amended as follows:

13 **2.62.060 Additional Powers During Emergency**

14 During the existence of an emergency, the City Manager administrator may:

15 A. Enter into purchase, lease or other arrangements with any agency of the United States or the
16 State of Oregon for temporary housing units to be occupied by disaster victims.

17 B. Accept or borrow funds from or passed through by the State of Oregon for temporary
18 housing for disaster victims.

19 C. Upon determination that the City will suffer a substantial loss of tax and other revenues from
20 a major disaster and that there is a demonstrated need for financial assistance to perform its
21 governmental functions, apply to the federal and state government, or request the state to apply
22 on the City's behalf, for grants and loans and to receive, on behalf of the City, such grants and
23 loans.

24 D. Determine the amount needed to restore or resume the City's governmental functions, and to
25 certify the same to the State of Oregon or the federal government.

26 **SECTION 44.** Ashland Municipal Code 2.62.070 is hereby amended as follows:

27 **2.62.070 Termination of State of Emergency**

28 The City Manager administrator shall terminate the state of emergency by proclamation when
29 the emergency no longer exists, or when the threat of an emergency has passed. The state of
30 emergency proclaimed by the City Manager administrator may be terminated at any time by

1 the City Council ~~council~~.

2 **SECTION 45.** Ashland Municipal Code 3.08.010 is hereby amended as follows:

3 **3.08.010 General Personnel Policies Purpose**

4 A. Statement of Purpose. The purpose of these general policies is to maintain a high level of
5 support for efficient and effective City service through systematic and uniform application of
6 professional personnel practices. The fundamental objectives of these policies are to:

- 7 1. Maintain high ethical standards in local government.
- 8 2. Promote economy, efficiency, and effectiveness in the City service.
- 9 3. Maintain a uniform job classification plan based upon the relative duties and
10 responsibilities of positions in the City service.
- 11 4. Provide fair and equal opportunity to all persons who enter City service, regardless of
12 race, color, creed, national origin, sex, sexual orientation, age, religious, or political belief
13 through proper personnel administration.
- 14 5. Promote high morale among City employees by providing good working conditions and
15 opportunity for advancement.
- 16 6. Develop a program of recruitment, advancement and tenure that will make City service
17 attractive as a career and encourage employees to give their best service to the City.

18 B. Scope and Coverage. These personnel policies shall apply to all employees of the City of
19 Ashland. ~~AMC Section~~ 3.08.020 contains policies also applicable to elected officials and
20 appointive officers. These policies are in addition to and in no way replace, modify or infringe
21 upon existing union contracts or other agreements between the City and its employees. Any
22 existing employee union contract or agreement with a nonunion employee group is hereby
23 incorporated by reference as further statement of the City's personnel policy with regard to
24 wages, hours and conditions of employment. In the event of a conflict between these policies and
25 a collective bargaining agreement, the terms of the collective bargaining agreement shall prevail.

26 C. Definitions of Terms.

- 27 1. Confidential employee. As defined in ORS 243.650(6), a confidential employee is one
28 who assists and acts in a confidential capacity to a person who formulates, determines, and
29 effectuates management policies in the area of collective bargaining. Confidential employees
30 are paid hourly for work performed and they are subject to payment for overtime according

- 1 to the Fair Labor Standards Act.
- 2 2. Department Head. A person directly responsible to the City **Manager Administrator**,
3 Mayor or City Council for the administration of a department. Department Heads are exempt
4 from overtime payment.
- 5 3. Division Manager. A person directly responsible to a Department Head or the City
6 **Manager Administrator** for the operational functions of a City department or division.
7 Division Managers are exempt from overtime payment.
- 8 4. Mid-Level Supervisor. A person reporting to a Division Manager or Department Head
9 who may receive overtime payment for work outside his/her normal scope and duties. Mid-
10 level supervisory positions require autonomy, independent decision making, planning, and
11 may provide supervision to other personnel.
- 12 5. Employee. A nonelected person who is hired and paid a wage or salary to work for the
13 City who has completed the probationary period.
- 14 6. Management employee or Manager. The City **Manager Administrator**, Department
15 Head, or a supervisor, as defined below.
- 16 7. Probationary Employee. A person appointed to a regular position but who has not
17 completed a probationary period during which the employee is required to demonstrate
18 fitness for the position by actual performance of the duties of the position.
- 19 8. Supervisor. Any person responsible to a higher divisional or departmental level authority
20 who directs the work of others and who is not in a collective bargaining unit.
- 21 9. Lead Worker. Any person assigned with oversight or leadership over a project or
22 workgroup for a specific duration. A lead worker may control resources and direct work
23 activities to achieve a desired outcome through peer direction, but he or she does not have
24 full supervisory authority.
- 25 10. Public Official. Any person holding public office as a paid employee, appointed or
26 elected official. For the purpose of this chapter, paid employee is a public official and
27 appointed or elected officials are public officials whether or not they are paid.
- 28 11. Temporary Employee. An employee who has been hired by the City to work for a period
29 not to exceed 18 months. Some temporary positions may also be limited duration positions.
- 30 12. Seasonal Employee. An employee hired for the purpose of meeting short-term work load

1 needs of the City. Seasonal employment shall not normally exceed 1,036 hours per fiscal year.

2 13. Limited Duration Position. A position funded by a discrete revenue source with a known
3 expiration date. An employee in a limited duration position may be terminated on the date the
4 funding expires, and such termination shall be considered a voluntary termination. Based upon
5 the terms of the funding source, the conditions of compensation and benefits may differ from the
6 compensation and benefits payable to regular City employees performing substantially similar
7 work. The term of employment of an individual in a limited duration position may exceed
8 **eighteen (18)** months without conferring with the individual. The City may, in its sole discretion
9 and based upon additional discrete revenue, extend the term of employment past the initial
10 funding expiration date and such extension shall not change the limited duration status of the
11 employee.

12 14. On-Call Employee. An employee who does not have regular hours of work or a regularly
13 assigned work schedule and who is available to work on an as-needed basis. There is no
14 guarantee of any hours of work for any on-call employee.

15 15. Part-time Employee. An employee who works less than 40 hours per week.

16 16. Hourly Employee. An employee who works less than half-time on a year-round basis.

17 **SECTION 46.** Ashland Municipal Code 3.08.020 is amended to read as follows:

18 **3.08.020 Code of Ethics**

19 A. Declaration of Policy. The proper operation of democratic government requires that public
20 officials, including elected officials, appointed officials and employees be independent, impartial
21 and responsible to the people; that governmental decisions and policy be made in the proper
22 channels of the governmental structure; that public office not be used for personal gain; and that
23 the 'public have confidence in the integrity of its government. In recognition of these goals, there
24 is hereby established a Code of Ethics applicable to all public officials, whether paid or unpaid,
25 including members of Regular or ad hoc boards, commissions, or committees filled by
26 appointment by the Mayor or members of the City Council.

27 The purpose of this Code **of Ethics** is to establish ethical standards of conduct for all public
28 officials by setting forth those acts or actions that are incompatible with the best interests of the
29 City of Ashland. It is also the purpose of this Code to assist public officials in determining the
30 proper course of action when faced with uncertainty regarding the propriety of a contemplated

1 action, thereby preventing them from unwittingly entangling public and private interests.
2 Through adoption of this Code the City hereby expresses its intent to maintain high ethical
3 standards in the City service, and to increase public confidence in the integrity of City public
4 officials. The provisions of ORS **Chapter** 244 (“Government Ethics Law”) as it currently exists
5 or may from time to time be amended are incorporated by reference herein. A violation of any
6 provision of ORS **Chapter** 244 shall be considered a violation of this Code of Ethics.

7 B. Responsibilities of Public Office. Public officials are agents of public purpose and are
8 engaged for the benefit of the public. They are bound to uphold the Constitution of the United
9 States and the Constitution of this State and to carry out impartially the laws of the nation, state
10 and the City, and thus to foster respect for all government. They are bound to observe in their
11 official acts the highest standards of morality and to discharge faithfully the duties of their office
12 regardless of personal considerations, recognizing that the public interest must be their primary
13 concern.

14 C. Dedicated Service. All public officials of the City should work to support the political
15 objectives expressed by the electorate and the programs developed to attain those objectives.
16 Appointive Officials and employees should adhere to the rules of work and performance
17 established as the standard for their positions by the appropriate authority.
18 Public officials should not exceed their authority or breach the law or ask others to do so, and
19 they should work in full cooperation with other public officials unless prohibited from so doing
20 by law or by officially recognized confidentiality of their work.

21 D. Fair and Equal Treatment.

22 1. Interest in Appointments. Canvassing of members of the Council or Mayor, directly or
23 indirectly, in order to obtain preferential consideration in connection with any appointment to
24 the City service shall disqualify the candidate for appointment except with reference to
25 unpaid positions filled by appointment by the Mayor or Council.

26 2. Use of Public Property. No public official shall request or permit the use of city-owned
27 vehicles, equipment, materials or property for personal convenience or profit, except when
28 such services are available to the public generally or are provided as municipal policy for the
29 use of such employee in the conduct of official business or as a specifically defined benefit in
30 compensation of employment.

1 3. Obligations to Citizens. No public official shall grant any special consideration, treatment
2 or advantage to any citizen beyond that which is available to every other citizen except as
3 otherwise permitted by law or ordinance.

4 E. Conflict of Interest.

5 1. Disclosure. No public official, whether paid or unpaid, shall take any action in the course
6 of his/her duties, the effect of which potentially or actually would be to the private financial
7 gain or loss of (a) the official, (b) any relative of the official or (c) those with whom the
8 official has a close business relationship, without first disclosing such potential or actual gain
9 or loss to the proper authority. Nor shall any public official, whether paid or unpaid, engage
10 in any business or participate in any proposed or current City transaction, contract, purchase
11 or sale which is potentially incompatible with the proper discharge of that public official's
12 official duties or which would tend to impair independence of judgment or action in the
13 performance of that public officials' official duties without first disclosing such potential or
14 actual incompatibility or impairment of independent judgment or action to the proper
15 authority. The requirements for such disclosure by elected and appointed officials and the
16 limits on their participation in discussion, debate, or voting on any issue out of which an
17 actual conflict arises shall be set forth in ORS 244.120(2), as it may be amended from time to
18 time and as it is interpreted by the Oregon Government Ethics Commission. For employees,
19 such disclosure shall be made in writing to the employee's immediate supervisor and
20 Department Head. Any employee or appointed official who has a financial or other private
21 interest in a particular matter shall disclose the nature and extent of such interest on the
22 records of the Council before participating in Council discussion on or giving an official
23 opinion to the Council on the matter.

24 2. Transactions with the City. A public official acting in an official capacity shall not
25 recommend, approve, award, enter into or authorize a City transaction, contract, purchase or
26 sale to which one of the parties is (a) the public official acting in his or her own behalf, (b) a
27 relative of the official or (c) a business entity in which the official or a relative of the official
28 has a substantial or controlling interest.

29 3. Gifts. No public official shall solicit or accept gifts, favors, services, compensation,
30 retainers or promises of future employment from a source with a legislative or administrative

1 interest in the performance of his/her official duties or in anticipation of official action to be
2 taken by the public official or by the City. For purposes of this provision, “gift” means
3 something of economic value given to a public official, a candidate or a relative or member
4 of the household of the public official. A public official may not accept a gift from a source
5 with a legislative or administrative interest in the public official’s official duties if the gift
6 has a value in excess of \$50 or smaller gifts from a single source with an aggregate value
7 exceeding \$50 in the course of a calendar year. Gifts received by City employees with a
8 value of less than \$50 shall, to the extent practical, be shared with other City employees.
9 Public officials may accept gifts with de minimis value, such as caps, coffee mugs, pens and
10 paperweights, and are not expected to share such gifts.

11 4. Remuneration Contingent on City Action. No public official shall accept a retainer or
12 compensation that is contingent upon a specific action by the City.

13 5. Disclosure of Confidential Information. No public official shall, without proper legal
14 authorization, disclose confidential information concerning the property, government or
15 affairs of the City that is confidential or not readily available to the public. Nor shall any
16 public official use information that is confidential or not readily available to the public to
17 benefit private interests, including the official’s private interests, at the expense of or in
18 conflict with the public interest. Information that is public may not be readily available to the
19 public if a special request is required to obtain the information or if special knowledge, such
20 as that acquired as a public official, is needed to take advantage of the information.

21 6. Representing Private Interests before Courts or City Departments or Elected or
22 Appointed Bodies. No appointed official shall appear on behalf of a client for a fee or pro
23 bono before the board or commission to which that official is appointed. No employee whose
24 salary is paid in whole or in part by the City shall appear on behalf of private interests before
25 any department or elected or appointed body of the City. An employee shall not represent
26 private interests in any action or proceeding against the interests of the City in any litigation
27 to which the City is a party, unless the employee is representing himself/herself as a private
28 citizen on purely personal business.

29 7. Incompatible Employment. No employee shall engage in or accept employment from or
30 render services for another person or entity when such employment or service is

1 incompatible with the proper discharge of that employee’s official duties for the City or
2 would tend to impair independence of judgment or action in the performance of that
3 employee’s official duties.

4 8. More Restrictive State Law Provisions. Nothing in this ordinance relieves or excuses
5 public officers and employees from compliance with more restrictive state laws applicable to
6 the particular public position. Planning Commissioners, for example, are subject to more
7 restrictive Conflict of Interest Provisions pursuant to ORS 244.135.

8 F. Political Activity. Employee involvement in certain political activities is protected under the
9 First Amendment. However, under Oregon and federal law, there are some restrictions on the
10 political activities of Oregon public employees. City employees are expected to be familiar with
11 and to comply with these laws as they currently exist or as amended.

12 Oregon law (ORS 260.432(2)) requires that: “No public employee shall solicit any money,
13 influence, service or other thing of value or to promote or oppose any political committee or to
14 promote or oppose the nomination or election of a candidate, the gathering of signatures on an
15 initiative, referendum or recall petition, the adoption of a measure or the recall of a public office
16 holder while on the job during working hours. However, this section does not restrict the right of
17 a public employee to express personal political views.”

18 The Hatch Act (federal law) further requires that employees whose principal job responsibilities
19 are financed in whole or in part from loans or grants made by the federal government may not
20 use their official influence to interfere with or affect the result of an election or a nomination for
21 office. An employee covered by the Act may not, either directly or indirectly, coerce or advise
22 another employee to contribute anything of value in any form whatsoever to any organization or
23 agency for political purposes.

24 The expression of personal political views while on the job during working hours is permitted
25 only to the extent that such expression does not interfere with the performance of the employee’s
26 duties or performance of the duties of other employees. While on the job, during working hours,
27 any comment or suggestion to fellow employees or the public to vote a certain way is prohibited,
28 even if it does not interfere with the performance of duties of the employee or other employees.
29 Politically related activities such as fundraising, soliciting volunteer help on political campaigns
30 or disseminating partisan election material is prohibited while on the job during working hours.

1 No public official shall promise an appointment to any municipal position as a reward for any
2 political activity.

3 G. Applicability of City Code of Ethics and State Ethics Law; Responsibility for Defense. This
4 City ethics code shall be operative in all instances covered by its provisions except when
5 superseded by an applicable statute, ordinance or resolution which is mandatory or when the
6 application of a statute, ordinance or resolution provision is discretionary but determined to be
7 more appropriate or desirable. Full compliance with the City code of ethics and with Oregon's
8 Government Ethics Law is the personal responsibility of each public official. The opinion of the
9 City ~~Manager Administrator~~, the City Attorney, or the Mayor shall not be considered an
10 affirmative defense if a public official is charged by the Oregon Government Ethics Commission
11 with a violation of state Ethics Law. Any public official accused of violating the state Ethics Law
12 shall be solely responsible for the costs of his or her defense before the Oregon Government
13 Ethics Commission. If the charges are dismissed or determined to be unfounded, the City
14 Council, at its sole discretion, may elect to reimburse a public official for some or all of the costs
15 incurred by the official.

16 1. Employees. When an employee has doubt as to the applicability of a provision of this
17 ethics code or the Government Ethics Law to a particular situation, the employee should
18 apply to the City ~~Manager Administrator~~, who is charged with the implementation of the
19 City's ethics code for an advisory opinion, and be guided by that opinion when given. The
20 employee shall have the opportunity to present his or her interpretation of the facts at issue
21 and of the applicable provision(s) of the ethics code or Government Ethics Law before such
22 advisory decision is made. All such requests for advice shall be treated as confidential. The
23 City ~~Manager Administrator~~ may ask the City Attorney to provide an advisory opinion
24 based upon the facts presented, which opinion shall be subject to the attorney-client
25 privilege.

26 2. Appointed and Elected Officials. When an appointed official or an elected official has
27 doubt as to the applicability of a provision of ethics code or state Ethics Law to a particular
28 situation, he or she may seek an advisory opinion from the City Attorney. If an appointed or
29 elected official requests advice on an ethics question about that official's actions or potential
30 actions, the opinion itself shall be subject to the attorney-client privilege and not be disclosed

1 to the Mayor, Council members, or anyone other than the requesting official without the
2 official's explicit approval.

3 3. The opinion of the City ~~Manager Administrator~~ or the City Attorney shall not be
4 considered an affirmative defense if a public official is charged by the Oregon Government
5 Ethics Commission with a violation of state Ethics Law.

6 H. Code of Ethics Definitions.

7 1. Employee - For the purposes of this section, "employee" shall mean one who is hired and
8 paid a wage or salary to work for the City other than elected or appointed officials.

9 2. Appointed Official - For the purposes of this section, "appointed official" shall mean a
10 person who is appointed to serve on one of the City's boards or commissions and shall also
11 mean the City ~~Manager Administrator~~ and City Attorney.

12 3. Elected Official - For the purposes of this section, "elected official" shall mean one who
13 is elected by the registered voters of the City of Ashland to serve the City and shall include:
14 the Mayor, the City councilors, the City recorder, the municipal judge and the parks
15 commissioners.

16 4. Public Official - For purposes of this section, "public official" shall mean any employee,
17 appointed official or elected official.

18 5. Private Interests - The interests, including but not limited to financial interests, of discrete
19 individuals or entities, as distinct from the interests of the City as a whole or the interests of
20 its citizens in general.

21 6. Relative - (a) The spouse and any children, siblings, parents, or spouses of siblings or
22 parents of a public official; (b) any children, siblings, parents, or spouses of siblings or
23 parents of a public official's spouse; (c) any individual for whom a public official has a legal
24 support obligation; or (d) any individual for whom a public official provides benefits arising
25 from the public official's public employment or from whom the public official receives
26 benefits arising from that individual's employment.

27 I. Municipal Court Judge. Notwithstanding any other provision of this ordinance, the conduct of
28 the Municipal Court Judge, an elected official, shall be governed by the Rules of Judicial
29 Conduct of the Oregon State Bar, including subsequently enacted amended, reordered, or
30 renumbered versions thereof, specifically incorporated herein and made a part hereof by this

1 reference.

2 J. Sanctions. Violation of any provision of this section, determined after notice and an
3 opportunity to be heard, shall constitute cause for disciplinary action up to and including
4 termination for an employee, or removal from office of an appointed official. Discipline or
5 removal actions shall be in addition to, and not in lieu of, any other City initiated sanction or
6 penalty authorized by Title 1 of the Ashland Municipal Code.

7 **SECTION 47.** Ashland Municipal Code 3.08.040 is hereby amended as follows:

8 **3.08.040 General Personnel Policies and Procedures**

9 A. Prerequisites for Employment. Prerequisites for employment by the City of Ashland as a
10 full-time employee are:

- 11 1. Applicants must be of legal employment age as determined by bona fide job
12 requirements.
- 13 2. Applicants must submit either a completed City application form or a resume of
14 education and experience in order to be considered for employment.
- 15 3. Applicants for “safety-sensitive” positions may be required to take a physical
16 examination scheduled by the City and at City expense prior to being hired.
- 17 4. Employment shall not be denied on the basis of familial relationship except for members
18 of the immediate family of either the Mayor, a member of the City Council, or the appointing
19 power; or as otherwise provided for in ORS 659A.309. No individual shall be advantaged in
20 securing and/or maintaining full-time or part-time employment or promotional opportunity as
21 a result of nepotism, defined as an employment advantage from a familial or an intimate
22 personal relationship with another full or part-time employee of the City. Relatives and
23 employees in close personal relationships may work for the City as long as the employment
24 relationship can be insulated from actual or potential conflicts of interest in the workplace,
25 and so long as neither relative has direct supervisory authority over the other.
- 26 5. All statements submitted on the employment application or attached resume shall be
27 subject to investigation and verification.
- 28 6. All information obtained during the application process shall be considered confidential
29 to the extent legally practicable.

1 7. No question in any application form, test or interview or by appointing authority shall be
2 framed as to attempt to elicit information concerning race, color, ancestry, sex, sexual
3 orientation, age, national origin, political or religious affiliation.

4 B. Probationary Period for New Employees. The probationary period is an integral part of the
5 employee selection process and provides the City with the opportunity to upgrade and improve
6 the departments by observing a new employee's work, training, aiding new employees'
7 adjustment to their positions, and by providing an opportunity to reject any employee whose
8 work performance fails to meet required work standards. All new employees shall serve a
9 minimum probationary period as determined by union contract or nonunion agreement but in no
10 case less than six (6) full months after which, and upon recommendation of their Department
11 Head, they shall be considered a regular employee. The probationary period may be extended
12 upon request of the Department Head if an adequate determination cannot be made at the end of
13 the probationary period.

14 C. Personal Appearance and Conduct. All employees are expected to maintain high standards of
15 appearance and conduct. Personal appearance and conduct appropriate to employees' positions
16 help establish and maintain favorable public opinions of the City's services. Each employee
17 should strive to maintain a neat, clean and well-groomed appearance.

18 1. Employees in the uniform services should pay particular attention to being in proper
19 uniform and present a neat and well-groomed general appearance.

20 2. Neatness of work performed is important. Proper attitude, courtesy and conduct on and
21 off the job are of importance to the individual as well as to the City. All City employees are
22 engaged in public relations work. All representatives of the City, regardless of whether
23 public contacts are direct or indirect, or whether they are by telephone or in person, shall be
24 courteous, efficient and helpful to all in their work and shall do the best job possible on every
25 assignment.

26 3. Favorable impressions created by the employee's courteous public relations develop good
27 will and support for the City's services. In public relations, city officials, city administrators,
28 fellow employees, and the citizenry expect City employees to do their work properly and
29 efficiently and to assume an obligation of loyalty and interest in the City's welfare. Loyalty is
30 due the City service as a whole, not merely the particular department in which the employee
is working. A City employee should take pride in servicing the local government and should

1 strive to advance the City’s interests wherever possible, to defend it against unjust criticism,
2 to protect its property, and to be of genuine service to the people of the City of Ashland.

3 D. Departmental Rules and Regulations. Each department of the City is encouraged to have
4 established rules, regulations and procedures. Each rule, regulation and procedure shall be in
5 harmony with the requirements established within this document, existing employee union
6 contracts, and other existing agreements between the City and its employees.

7 E. Personnel Records. The ~~City Human~~ **Resources Department Resource Office** shall be
8 responsible for the proper administration of the personnel program and shall maintain the official
9 personnel records for each employee. Personnel records of employees shall be considered
10 confidential and shall be available for inspection only to the employee and authorized City
11 officials. An employee will be entitled to inspect his/her personnel record upon request;
12 acknowledge the placement of new materials in the employee’s personnel file; and challenge or
13 reply to materials which the employee believes to be obsolete or otherwise inappropriate for
14 evaluation, promotion or retention.

15 F. Pay Periods. Unless otherwise agreed by contract, employees shall be paid on a bi-weekly
16 basis, on every other Friday. In the event a regularly scheduled pay date falls on a Holiday, the
17 last preceding workday shall be the regular pay date in lieu thereof.

18 G. Residence Requirements. City residency shall not be a condition of employment or
19 continued employment. However, employees regularly assigned to stand-by status will be
20 required to live within the Ashland area, as prescribed by Union Contract or nonunion employee
21 agreement. Residency within the Urban Growth Boundary is encouraged for the City **Manager**
22 ~~Administrator~~ and for Department Heads. Existing City employees promoted into the position
23 of Department Head will not be required to move as a result of a promotion, but are strongly
24 encouraged to move within the Urban Growth Boundary once appointed as a Department Head.
25 Individuals in certain safety-related or emergency response job classifications, as determined by
26 resolution or by administrative action at time of recruitment or hire, shall establish their
27 residence to enable them to report for emergency duty within 40 minutes of notification
28 including “get ready” and travel time. Examples of such classifications include, but are not
29 limited to:

30 Public Works Superintendent

- 1 Street Supervisor
- 2 Wastewater and Reuse Supervisor
- 3 Water Quality and Distribution Supervisor
- 4 Water Treatment Plant Supervisor
- 5 Electric Operations Superintendent
- 6 Fire Division Chief (EMS, Fire and Life Safety and Operations Divisions)
- 7 Deputy Police Chief/Lieutenant
- 8 Police Sergeant
- 9 Computer Services Manager
- 10 AFN Operations Manager
- 11 Network Administrator
- 12 Senior Information Systems Analyst
- 13 Information Systems Analyst/Programmer
- 14 User Support Coordinator
- 15 Maintenance and Safety Supervisor
- 16 Telecommunications Technician

17 Residence shall be established by new employees in these classifications within these boundaries
18 or limitations within a period of twelve months of hire or promotion. Department Heads may
19 identify other positions which require emergency response within **forty (40)** minutes to meet
20 operational requirements.

21 H. Mileage and Travel Expenses. Expenses will be reimbursed for costs associated with travel
22 while on City business in accordance with the City's travel reimbursement policy.

23 I. Selling and Soliciting among Employees. Employees may use bulletin boards in employee
24 break rooms and other nonpublic areas for the purpose of selling or bartering personal goods and
25 services when only the employee is the beneficiary of such a sale or barter. Actual transactions
26 shall take place only outside of work hours or on employees' nonpaid break time. An employee
27 may also use such bulletin board resources for the purpose of advertising fund-raising activities
28 by nonprofit organizations with which the employee is affiliated. In compliance with ORS
29 **Chapter 244**, the use of bulletin boards for these purposes is considered part of an employee's
30 compensation package but is deemed to have no cash value.

1 J. Cost Consciousness. City employees should minimize expenses possible in the discharge of
2 their duties.

3 1. Lights, electric heaters, motors, etc., should be turned off when not needed.

4 2. City equipment should be well cared for and maintained.

5 3. Conservation should be practiced in the use of all City supplies.

6 K. City Equipment. City equipment shall not be used for personal purposes, except as permitted
7 in the City's vehicle policy. Employees who are assigned vehicles or operate trucks or other
8 heavy equipment are required to be in possession of a current Oregon operator's license. In
9 addition, the City will periodically check the driving records of these employees to insure that
10 their operator's licenses are current. Employees who are assigned vehicles or to operate trucks or
11 other heavy equipment must report any change to driving privileges to his/her supervisor
12 immediately.

13 L. Uniforms, Protective Clothing and Devices. If an employee is required to wear a uniform,
14 protective clothing, or use any type of protective device, such article shall be provided by the
15 City. Lost articles or damage to articles due to negligence shall be reimbursed to the City by the
16 employee. Failure of an employee to wear such required uniform, protective clothing or use such
17 protective device as prescribed by the City shall be cause for disciplinary action as set forth in
18 **AMC Section** 3.08.100.

19 M. Safety. All employees are urged to practice safety at all times. Mishaps and accidents can be
20 avoided if safe conditions are maintained. All employees are expected to abide by the
21 appropriate federal and state safety standards associated with their work as well as City safety
22 standards established through work rules. Willful violation of such rules shall be grounds for
23 disciplinary action. Department Heads and supervisors are encouraged to establish safety
24 programs and regular safety briefings for the employees in their departments. All employees are
25 responsible for immediately reporting safety standard violations or unsafe working conditions or
26 equipment to their immediate supervisors. In the event of an accident involving a City employee
27 on City time, or on City equipment, or City property, the accident should be immediately
28 reported to the employee's supervisor and the City's risk management team.

29 N. Recovery of City Property. Upon termination with the City for whatever reason, City-owned
30 equipment, clothing, keys, I.D. card, etc., checked out to the employee must be returned prior to

1 issuance of the employee’s final check. Loss of keys, ID cards or other items while on the job
2 must be reported to a supervisor immediately to prevent a breach in security.

3 O. Legal Liability. The City shall purchase liability insurance in the maximum amounts set
4 forth in ORS 30.272 for the protection of employees against claims against them incurred in or
5 arising out of the performance of their official duties.

6 1. If an employee is negligent in the performance of his/her other duties and responsibilities,
7 such as failure to report faulty or unsafe equipment or negligent operation of a motor vehicle,
8 and accidents result from such conditions, the employee may be held personally and legally
9 liable.

10 2. A good employee will abide by laws and regulations and perform assigned duties as a
11 reasonable, prudent person and not in a negligent manner. Such an employee will strive to
12 preserve the honor, trust, confidence and respect that is bestowed upon them by the public.

13 **SECTION 48.** Ashland Municipal Code 3.08.050 is hereby amended as follows:

14 **3.08.050 Classification Plan**

15 A. Position Classification Plan. The City ~~Manager Administrator~~ shall prepare and be
16 responsible for a position classification plan which shall be a part of these policies. Copies of this
17 plan and of specifications for individual classes shall be available in the Human Resource Office.

18 B. Titles and Specifications. The position classification plan shall include titles and written
19 specifications for the various classes of positions as a guide toward equal pay for equal work. Job
20 titles shall refer to a particular position and not to the individual.

21 1. Each position shall, on the basis of the duties and responsibilities of the position, be
22 allocated to an appropriate class.

23 2. Each class shall have a specification that includes a concise, descriptive title, a general
24 description of the duties and responsibilities of each position in the class, and a statement of
25 the minimum or the desirable qualifications for each such position.

26 The position specifications take into consideration the requirements of the job and are merely
27 descriptive and explanatory of the work to be performed. They may not necessarily include
28 all of the duties.

29 C. Reclassification.
30

- 1 1. The City ~~Manager Administrator~~ may reclassify a position whenever its duties change
2 materially, provided the reclassification can be accomplished within the limitations of the
3 current budget of the City.
- 4 2. Reclassification to a new position or a change in job title shall not deprive an employee
5 of, or change the date of eligibility for, scheduled pay increases which would otherwise have
6 been granted.
- 7 3. If an employee is promoted, or a position reclassified, to a class having higher salary
8 range the employee's salary step shall be adjusted to the minimum rate of the new class.
9 However, if the employee's current salary step is higher than the minimum rate for the new
10 class, adjustment will be made to the next highest rate which exceeds the employee's current
11 step.
- 12 4. When reclassification to a new position or a change in job title is a result of a bona fide
13 promotion, the date of the promotion to the new job classification shall become the
14 anniversary date for any future salary adjustments.
- 15 5. When an employee is transferred between positions with no change in classification or is
16 transferred or reclassified to a class having the same salary range, the rate of pay shall remain
17 the same.

18 D. New Positions. The City ~~Manager Administrator~~ may create new positions and allocate
19 the positions to an appropriate class. The City ~~Manager Administrator~~ shall prepare
20 appropriate class specifications therefore. (Ord. 3078, amended, 11/20/2012)

21 **SECTION 49.** Ashland Municipal Code 3.08.060 is hereby amended as follows:

22 **3.08.060 Affirmative Action Plan**

23 The City ~~Manager Administrator~~ is the designated Chief Affirmative Action Officer. Day to
24 day administration of the City's affirmative action program is the responsibility of the City's
25 Human Resources Department Personnel Assistant. A copy of the City's Affirmative Action
26 policy and program shall be kept on file in the Human Resources Department office of the
27 Personnel Assistant.

28 **SECTION 50.** Ashland Municipal Code 3.08.070 is hereby amended as follows:

29 **3.08.070 Pay Plan and Compensation**

1 A. Pay Plan and Compensation. The pay plan and compensation for each classification and the
2 positions within that classification will be that established by current employee union contracts
3 and formal agreements between the City and nonunion employees.

4 B. Appointee Compensation. An appointee to a new position shall receive the minimum salary
5 for that position except as follows:

6 1. In cases of unusual difficulty in filling the position.

7 2. In hiring exceptionally qualified personnel, the City **Manager Administrator** may cause
8 the appointment to be made at a salary above the minimum, but not more than the maximum
9 for the position.

10 3. Employees appointed to a position above the entry level salary will be required to
11 complete the full length of service required for the next regularly scheduled pay increase.

12 However, the City **Manager Administrator**, on the recommendation of an employee's
13 supervisor, may at any time grant an increase for meritorious service.

14 **SECTION 51.** Ashland Municipal Code 3.08.090 is hereby amended as follows:

15 **3.08.090 Variances**

16 The City **Manager Administrator** shall have the power to vary or modify the strict application
17 of the policies and rules listed herein in any case where such strict application would result in
18 practical difficulties or unnecessary hardships.

19 **SECTION 52.** Ashland Municipal Code 3.08.100 is hereby amended as follows:

20 **3.08.100 Discipline and Discharge**

21 A. Discipline. The following section applies only to those employees who are not subject to the
22 terms and conditions of a collective bargaining agreement and who do not have a written
23 individual employment agreement with the City.

24 1. General. Employees may be disciplined for cause as determined by their supervisor,
25 Department Head, or the City **Manager Administrator**. Probationary, temporary, hourly,
26 and on-call employees, as at-will employees, may terminate their employment and may be
27 discharged with or without notice and with or without cause. Disciplinary action may be
28 imposed upon any employee for failing to fulfill responsibilities as an employee. Conduct
29 reflecting discredit upon the City or department, or which is a direct hindrance to the
30 effective performance of city functions, shall be considered good cause for disciplinary

1 action. Such cause may also include misconduct, inefficiency, incompetence,
2 insubordination, misfeasance, the willful giving of false or confidential information, the
3 withholding of information with intent to deceive when making application for employment,
4 willful violation of departmental rules, city policy, state law, commission of any matter listed
5 in AMC ~~Section~~ 3.08.100 (A)(2) or for political activities forbidden by state law.

6 2. Causes for Warning, Suspension or Dismissal. Disciplinary action may be imposed upon
7 any employee for failing to fulfill their responsibilities as an employee. Conduct reflecting
8 discredit upon the City or department or which is a direct hindrance to the effective
9 performance of City functions, shall be considered good cause for disciplinary action.

10 General reasons for which an employee may be disciplined include but are not limited to:

- 11 a. Drinking intoxicating beverages or use of illegal drugs while on the job, or arriving
12 on the job under the influence of intoxicating beverage or illegal drugs;
- 13 b. Violation of a lawful duty,
- 14 c. Breach of discipline;
- 15 d. Incompetence;
- 16 e. Being absent from work without permission or failing to report to the supervisor or
17 Department Head when absent;
- 18 f. Being habitually absent or tardy;
- 19 g. Failure to perform assigned work in an efficient manner, being wasteful of material,
20 property, or working time;
- 21 h. Abusive language or conduct;
- 22 i. Inability to get along with fellow employees so that work being performed is hindered
23 or below required standards;
- 24 j. Committing a felony or being convicted of a misdemeanor involving moral turpitude;
- 25 k. Use of religious, political or fraternal influence in the pursuit of City business;
- 26 l. Willful or flagrant violation of safety rules;
- 27 m. Violation of the City's Code of Ethics;
- 28 n. Willful failure to follow a lawful directive from a direct supervisor.

29 3. Forms of Discipline. In general, the City will follow principles of progressive discipline
30 when implementing discipline. However, the form of discipline to be imposed in a particular

1 situation will depend on factors such as the severity of the offense, the number of
2 occurrences of the same or similar offenses, the employee's work history and record of prior
3 discipline with the City and any other relevant factors. Disciplinary action generally will
4 consist of one or more of the following:

- 5 a. Oral warning;
- 6 b. Written reprimand;
- 7 c. Suspension;
- 8 d. Demotion;
- 9 e. Discharge.

10 4. City Reservation. The City reserves the right, depending on the circumstances of the
11 particular situation, not to follow progressive discipline and to implement or impose one or
12 more of these disciplinary actions, to bypass one or more of these disciplinary actions or to
13 take or implement other forms of disciplinary action if determined to be appropriate by the
14 employee's supervisor, Department Head, or the City **Manager Administrator**. The City
15 further reserves the right to take or implement nondisciplinary actions that may be
16 appropriate as part of a corrective action plan, including, but not limited to, unscheduled
17 performance evaluations, work plans, last chance agreements, additional supervision or
18 training, referral to counseling or mediation, restructuring of job assignments, or other
19 actions as deemed appropriate.

20 5. Employee Right to Grieve. Disciplinary actions imposed on nonrepresented employees
21 that are otherwise subject to the grievance process may be grieved under the provisions of
22 AMC 3.08.110 Discipline or discharge of probationary, temporary, hourly and on-call
23 employees is not subject to the grievance process.

24 B. Discharge.

25 1. Discharge of regular employees. Regular employees may be discharged from City service
26 for cause as determined by the employee's Department Head or the City **Manager**
27 **Administrator**.

28 2. Discharge during probationary period. All employees on probation are at-will employees
29 and, as such, may terminate their employment and may be discharged with or without cause
30 and with or without notice as determined by an employee's Department Head or the City

1 **Manager Administrator.**

2 3. Discharge of temporary, hourly and on-call employees. Temporary and on-call
3 employees are at-will employees and, as such, may terminate their employment and may be
4 discharged with or without cause and with or without notice as determined by an employee's
5 Department Head or the City **Manager Administrator.**

6 4. Eligibility for rehire. Employees who are discharged for cause are not eligible for rehire
7 in any City Department unless rehire is approved by the City **Manager Administrator.**

8 **SECTION 53.** Ashland Municipal Code 3.08.110 is hereby amended as follows:

9 **AMC 3.08.110 Grievance Procedures**

10 A. Grievances. The City will promptly consider and respond to employee grievances relating to
11 discipline, discharge, application of the Title 3 of the Ashland Municipal Code, or to terms and
12 conditions of employment. The City prefers to informally correct the causes of grievances and
13 encourages supervisors and employees to address and resolve problems as they arise. If the cause
14 of a grievance cannot be resolved informally, for represented employees, the grievance
15 procedures of the applicable collective bargaining agreement shall apply.

16 B. Procedure. For nonrepresented employees, the following procedure for processing formal
17 grievances shall be followed:

18 1. *Step I.* The aggrieved employee, or group of employees, shall verbally present the
19 grievance to the immediate supervisor within fifteen (15) calendar days of the occurrence of
20 the issue or action giving rise to the grievance or within fifteen (15) calendar days of the time
21 the employee or group of employees become aware of the issue or action. The supervisor
22 shall give his/her response within fifteen (15) calendar days of the date of the presentation of
23 the grievance, not including the date of presentation.

24 2. *Step II.* If the grievance is not fully resolved at Step I, the grievance shall, in detail, be
25 reduced to writing, signed and dated by the aggrieved employee or group of employees, and
26 presented to the Department Head within fifteen (15) calendar days after the supervisor's
27 response is given, not including the date of the response. The Department Head shall respond
28 in writing to the grievance within fifteen (15) calendar days of the date the written grievance
29 is presented to the Department Head, not including the date of presentation. The decision of
30 the Department Head regarding the grievance of a written reprimand shall be final and

1 binding.

2 3. *Step III.* If the grievance is not fully resolved at Step II, employees, other than those
3 appointed by mayor and city council, may appeal a suspension without pay, demotion or
4 discharge to the City **Manager Administrator**. The written grievance shall be presented by
5 the aggrieved employee or group of employees, along with all pertinent correspondence,
6 records and information, to the City **Manager Administrator** within fifteen (15) calendar
7 days after the Department Head's response is given, not including the date of the response.
8 The City **Manager Administrator** may meet with the aggrieved employee or group of
9 employees, the immediate supervisor, and/or the Department Head before responding to the
10 grievance. The City **Manager Administrator** shall respond to the grievance in writing
11 within fifteen (15) calendar days after the date the written grievance is presented to the City
12 **Manager Administrator**, not including the date of presentation. The City **Manager's**
13 **Administrator's** decision shall be final and binding.

14 C. Limitations on Grievances.

- 15 1. Oral warnings are not subject to the grievance process.
16 2. Written reprimands can only be grieved through Step II of the grievance procedure.
17 3. Discipline or discharge of probationary, temporary, hourly and on-call employees is not
18 subject to the grievance process.

19 D. Time Limits. If the grievance procedures established by this section are not initiated by an
20 aggrieved employee or group of employees within the time limits set forth in this section, the
21 grievance shall be dismissed and it shall be considered that the grievance did not exist. If the City
22 fails to respond to any grievance within the time prescribed for a response, the grievance will
23 automatically advance to the next step.

24 E. Extension of Time Limits. The time limits for the initiation and completion of the steps of
25 the grievance procedure may be extended by mutual consent of the parties involved, which must
26 be documented in writing.

27 F. Prohibited Practices. No employee may be disciplined, retaliated against or discriminated
28 against in any way because of the employee's use of the grievance procedure.

29 **SECTION 54.** Ashland Municipal Code 3.08.120 is hereby amended as follows:

30 **3.08.120 Hours of Work and Outside Employment**

1 A. Work Schedules.

2 1. Attendance and Reporting Time. Full-time employees shall perform a full day's work
3 each and every scheduled working day. Employees must be at their designated workspaces
4 ready to work at their designated reporting times. Tardiness shall be a cause for disciplinary
5 action. An employee who is not able to report for work at his/her designated time must notify
6 his/her supervisor as soon as possible prior to the employee's scheduled shift of his/her
7 inability to report to work on time, the reason for being late, and an expected arrival time.
8 Each employee shall remain at work until the end of his/her work day or work shift unless
9 permission to leave earlier is granted by his/her supervisor or Department Head. An
10 employee who cannot report for work due to illness or some other unavoidable reason is
11 expected to notify his/her supervisor or Department Head as soon as practically possible but
12 in no event later than the beginning of his/her next scheduled work day. Absence from work
13 without prior notification to the employee's supervisor or Department Head shall be
14 considered an implied resignation by the employee unless circumstances beyond the control
15 of the employee reasonably prevent the employee from reporting to work or notifying his or
16 her supervisor or Department Head of the employee's inability to report to work.

17 2. Hours of Work. Work hours are established by the City ~~Manager Administrator~~.
18 Department Heads shall have personnel available to serve the public at all times during work
19 hours, unless otherwise authorized by the City ~~Manager Administrator~~. Department Heads
20 may establish flexible work schedules, subject to approval by the City Manager
21 ~~Administrator~~, so long as department operations and public service requirements will not be
22 adversely affected, and the alternative or flexible schedule does not conflict with other city
23 policies, the Municipal Code, any applicable collective bargaining agreement or any
24 applicable wage and hour law. An employee wishing to work an alternative or flexible work
25 schedule shall submit a written request to his or her Department Head.

26 3. Work Week and Work Schedules. The standard work week for City employees is Sunday
27 through Saturday. Except as may otherwise be defined in a collective bargaining agreement,
28 work schedules for each department shall be determined by the Department Head, subject to
29 approval by the City Manager Administrator.

30 B. Rest and Meal Periods.

1 1. Rest Periods. Each employee shall be provided an uninterrupted rest period of fifteen
2 (15) minutes for every four hours in a work period, to be taken as close as possible to the
3 midpoint of each four-hour work period. Rest periods must be provided and taken separately
4 from the employee's meal period and cannot be saved up to lengthen the employee's meal
5 period or to allow an employee to leave work early.

6 2. Meal Periods. All employees who work more than six (6) hours in a work day shall be
7 given a meal period during the employee's work shift. Except when, due to the nature and
8 circumstances of an employee's work, an employee is required to remain on duty or to
9 perform work tasks during the employee's meal period, the employee's meal period shall be
10 taken as close as possible to the middle of the employee's work shift. Meal periods shall be at
11 least thirty (30) continuous minutes in length. Nonduty meal periods are the employee's own
12 personal time. During a nonduty meal period, an employee shall be free to leave his or her
13 work station and shall not be expected to perform any work. In the event of an emergency or
14 other circumstance in which an employee is required by his or her supervisor or Department
15 Head to remain on duty or to perform work tasks during the employee's designated meal
16 period, the meal period will be paid time. Meal periods cannot be skipped or shortened to less
17 than thirty (30) continuous minutes in length to allow an employee to leave work early.

18 3. Expression of Breast Milk. An employee shall be allowed an unpaid 30-minute rest
19 period to express milk during each four-hour work period, or the major part of a four-hour
20 work period, to be taken by the employee approximately in the middle of the work period
21 unless the City determines an undue hardship under state law (ORS 653.077). The City may
22 require, if feasible, that the employee take the rest periods at the same time as the rest periods
23 or meal periods that are otherwise provided. This shall only apply to employees expressing
24 milk for her child 18 months of age or younger. The City shall make reasonable efforts to
25 provide a location, other than a public restroom or toilet stall, in close proximity to the
26 employee's work area for the employee to express milk in private.

27 C. Outside Employment. City employees may, in general, engage in employment or business
28 outside their work for the City, with the written approval of the City **Manager Administrator**.
29 However, employees shall not utilize City time, materials, equipment or resources for such
30 outside employment or business, or allow such employment or business to conflict with, or

1 appear to conflict with, the employee's work for the City or with the interests or business of the
2 City. No employee may perform any service or employment, outside of City employment, or
3 engage in any business for which the employee receives compensation during the employee's
4 City work hours. Employees may be subject to other requirements depending on department
5 needs. Questions or issues regarding any actual, potential or apparent conflict of interest shall be
6 resolved by the City **Manager Administrator**.

7 In determining whether to permit outside employment, the City shall consider:

- 8 1. The need for mentally and physically alert employees.
- 9 2. Insulating employees from potential conflict of interest situations.
- 10 3. Maintaining efficiency unimpaired by other employment, particularly for those City
11 positions requiring employees to be available for duty twenty-four (24) hours a day.

12 Any outside employment or business obligations must not interfere with or adversely affect the
13 employee's ability to fulfill all of the employee's responsibilities to the City. If, in the judgment
14 of the employee's Department Head, an employee's outside employment or business interferes
15 with or adversely affects the employee's performance of duties for the City, the Department
16 Head may require the employee to terminate the outside employment or business. Under such
17 circumstances, the failure or refusal of an employee to terminate outside employment may be
18 grounds for termination of employment with the City.

19 **SECTION 55.** Ashland Municipal Code 3.08.130 is hereby amended as follows:

20 **3.08.130 Promotions, Demotions and Reassignments**

21 A. Promotions.

- 22 1. Process. If a qualified employee applies for an open position, at the discretion of the City
23 **Manager Administrator**, the City may opt to promote the employee to the position and not
24 recruit for the position. The City **Manager Administrator** may, at his or her option, require
25 the employee to take any appropriate tests and go through an interview or interviews and a
26 background check prior to deciding whether to promote the employee to the new position.
- 27 2. Effect of Promotions on Salary. When an employee is promoted to a position having a
28 higher salary range, the employee's salary step shall be adjusted to the minimum step of the
29 new position. However, if the employee's current salary step is higher than the minimum step
30 for the new position, adjustment will be made to the next highest step which exceeds the

1 employee's current step.

2 3. Promotional Probationary Period. Employees who are promoted to a new position must
3 serve a new probationary period of six (6) months in the new position.

4 B. Demotions and Reassignments. When an employee is demoted for cause to a position with a
5 lower pay grade, the employee's pay will be reduced to a pay step within the lower pay grade.
6 When an employee is reassigned for administrative purposes through no fault of the employee, if
7 the employee's reassigned position is in a lower pay grade, normally, the employee's pay will be
8 changed to the step in the pay grade for the employee's new position that is closest to the
9 employee's current rate of pay. If the employee's reassigned position is in a higher pay grade,
10 normally, the employee's pay will be changed to the closest step in the pay grade for the
11 employee's new position which is not lower than the employee's current rate of pay. Subject to
12 approval of the City ~~Manager Administrator~~, the salary of an employee who is reassigned to a
13 position with a lower pay grade may be held at the employee's current rate of pay, without
14 adjustments for cost-of-living increases, until the employee's rate of pay falls within the pay
15 grade for the employee's reassigned position.

16 **SECTION 56.** Ashland Municipal Code 3.08.140 is hereby amended as follows:

17 **3.08.140 Vacation, Sick Leave and Other Leaves**

18 A. Authorization for Leave. Except as otherwise provided in this ~~code~~ chapter, any applicable
19 collective bargaining agreement, or as required by law, all requests for leave must be approved
20 by an employee's supervisor or Department Head.

21 B. Vacations. Vacation leave taken shall not be in excess of that actually accrued at the time it
22 is taken, and generally is not granted to a new employee prior to the completion of six (6)
23 months satisfactory service. Vacations shall be scheduled in conformance with union contracts,
24 nonunion agreements and departmental policy. Vacation leave shall be requested on forms
25 provided by the City and should be submitted not less than thirty (30) calendar days prior to the
26 time requested. Vacations shall be approved by the Department Head, and where conflicts arise,
27 seniority shall prevail except in the case of Department Heads and their immediate assistants.

28 C. Utilization. Vacation leave shall not be taken in excess of that actually accrued. However,
29 the City ~~Manager Administrator~~ has the discretion to authorize all management employees to
30 take vacation in advance of accrual when warranted by special circumstances.

1 D. Continuous Service. Continuous service, for the purpose of accumulating vacation leave
2 credit, shall be based on the regular paid hours worked by the employee. Time spent by the
3 employee on city-authorized, city-paid absences shall be included as continuous service. Time
4 spent on unpaid absences shall not be counted as service; provided, that employees returning
5 from such absences shall be entitled to credit for service prior to the leave.

6 E. Accrual Limitation. Management and Confidential employees are required to take at least
7 75% of their annual vacation accrual as time off each year. All Management and Confidential
8 employees may elect to receive up to forty (40) hours as cash on the first paycheck in April each
9 year. The balance not elected for cash payment will be added to their cumulative vacation
10 accrual. In no event shall the employee's total vacation accrual exceed twice the amount of the
11 employee's annual accrual without written approval from his/her Department Head.

12 F. Scheduling. Vacation times shall be scheduled based on the City Manager's
13 ~~Administrator's~~ or Department Head's judgment as to the needs of efficient operations.

14 G. Payment on Termination. An employee terminated after six (6) months employment shall be
15 entitled to prorated payment for accrued vacation leave at the rate as of the date of termination.
16 In the event of death, earned but unused vacation leave shall be paid in the same manner as
17 salary due the deceased employee is paid.

18 H. Administrative Leave. Exempt management employees may be granted up to one (1) week
19 of Administrative Leave each July at the discretion of their Department Head or the City
20 Manager Administrator. The purpose of Administrative Leave is to recognize the extra hours
21 required of exempt managers for which no overtime compensation is afforded. No cash payment
22 will be made for Administrative Leave, and it can only be taken as time off during the year in
23 which it is granted. Administrative Leave must be used by June 30th each year or it will be
24 deemed forfeited. In the event of termination or retirement, no cash payment will be made for
25 Administrative Leave. In the event of a termination, the City may require pro-rated repayment of
26 Administrative leave at the rate of 3.3333 hours for each calendar month remaining in the year
27 after the date of termination.

28 I. Vacation Accrual. Management and other nonrepresented employees shall be eligible for
29 vacation with pay in accordance with the ~~following~~ schedule set by resolution of the City
30 Council.

Months of Service	Monthly Vacation Accrual (hours)	Annual Vacation Accrual (hours)
0 – 48	8.67	104
49 – 108	10.67	128
109 – 168	12.67	152
169 – 228	14	168
229 – 288	15.34	184

J. Sick Leave. Employees shall accrue sick leave at the rate of eight (8) hours per month of full service or twelve (12) hours per month for 56 hours/week personnel. Sick leave shall only be used when unable to perform their work duties by reason of illness or injury, or to care for an ill or injured dependent, or to attend a medical appointment that cannot be scheduled for a time other than the during the work day.

Employees who are ill are encouraged to use sick leave to become well and to prevent the spread of their illness (if applicable) to co-workers and the public. A supervisor may require that an employee with an illness leave the workplace. A decision to send a sick employee home must be based on observable symptoms and behaviors that lead a reasonable person to conclude that the employee is unable to perform his/her basic job duties or presents a threat of infection to co-workers or the public. Supervisors shall consider the seriousness of the illness and the relative risk to the work group. If the employee disagrees with the supervisor’s assessment, the City may require the employee to visit urgent care. If the employee receives documentation from the urgent care physician approving an immediate return to work, the City shall pay for the urgent care visit and the time associated with the urgent care visit shall be counted as time worked.

K. Unscheduled Leave.

1. Employees are responsible for regular attendance at their jobs, **pursuant to AMC per Section 3.08.120 of this Code**. Excessive unscheduled absences create a burden on the other members of the work team and can negatively impact service to customers.

1 2. Unscheduled leave is any nonqualifying FMLA/OFLA leave that is not approved in
2 advance. Unscheduled leave can be related to an employee or a family member becoming ill,
3 but can also include unexpected events that result in an absence. If an employee is required to
4 leave work due to an illness, the incident shall be considered unscheduled leave. Supervisors
5 have the discretion to waive an incident due to extenuating circumstances.

6 3. Supervisors may require documentation from a health care provider for any unscheduled
7 leave equal to or greater than three consecutive work shifts.

8 4. Inappropriate or excessive use of unscheduled leave may be cause for disciplinary action.
9 Inappropriate use includes feigning illness, deceitful use of sick leave, or failure to provide
10 requested documentation for an absence. Excessive unscheduled leave is defined as seven
11 occurrences during rolling twelve-month period. FMLA/OFLA qualifying leave shall not be
12 included in calculating excessive unscheduled leave.

13 5. An employee who takes excessive unscheduled leave, as defined above, may be required
14 to provide documentation of the reason for any additional unscheduled leave of any length of
15 time within a 12-month rolling period.

16 6. An absence of more than one day for the same reason is considered one occurrence. If the
17 days are not consecutive, a doctor's note may be requested to establish that the absences are
18 linked.

19 7. For performance evaluations, an employee must have no more than six unscheduled leave
20 occurrences, as defined above, to receive a "Meets Standards" for Attendance.

21 L. Leave of Absence. An employee granted a leave of absence will be required to use all
22 accrued and unused compensatory time and all accrued and unused paid leave time before the
23 employee may take leave without pay. After an employee's paid time is exhausted, any leave
24 granted or permitted will be without pay.

25 All leave used (paid or unpaid) shall be recorded on the employee's Payroll Time and Leave
26 Worksheet. Each Department Head is responsible for ensuring that all leave used by employees
27 in his/her department is accurately recorded and reported on the monthly Payroll Time and Leave
28 Worksheets.

29 M. Leave of Absence With Out Pay. An employee's Department Head may grant a leave of
30 absence without pay not to exceed **thirty (30)** calendar days. Leaves of absence without pay for

1 periods in excess of **thirty (30)** days must be approved by the City **Manager Administrator** and
2 the employee's Department Head except for leaves of absence which, by law, an employee is
3 entitled to take.

4 N. Special Leave – Closure of City Offices. In the event of weather-related or other conditions
5 determined to be an emergency by the City Council or the City **Manager Administrator**, the
6 Council or the City **Manager Administrator** may decide to close City offices. For purposes of
7 this section, an emergency includes, but is not limited to, conditions due to the following:

- 8 a. Snow/Ice
- 9 b. Building problem
- 10 c. Bomb threat
- 11 d. Volcano
- 12 e. Forest Fire
- 13 f. Earthquake
- 14 g. Flood
- 15 h. Terrorist threat
- 16 i. Civil unrest

17 In the event of a declared emergency resulting in closure of City offices, employees must report
18 to alternate City offices that may be established. If City offices are closed in an emergency and
19 alternate City offices are not yet established, employees will be granted leave with pay for the
20 duration of the closure. If City offices are open for business and an employee does not report to
21 work due to weather-related or other conditions, the time off will be deducted from the
22 employee's accrued paid leave unless it is determined by the City **Manager Administrator** that
23 the employee could not report to work due to extraordinary circumstances.

24 O. Victims of Domestic Violence, Sexual Assault or Stalking Leave. An employee shall be
25 allowed to take a reasonable amount of leave determined by the City **Manager Administrator**
26 and Human **Resources Department Resource Office** to address domestic violence, sexual
27 assault, or stalking of the employee or his or her minor dependents (ORS 659A.272). The
28 employee must have been employed with the City for at least six **(6)** months and worked an
29 average of more than **twenty-five (25)** hours per week for at least 180 days immediately before
30 the requested leave. The leave must not create an undue hardship on the department and it must

1 be for an authorized purpose. An authorized purpose includes seeking legal or law enforcement
2 assistance or remedies; seeking medical treatment or recovering from injuries; obtaining
3 counseling or services from a victim services provider; or relocating or taking steps to secure a
4 safe home for the employee or minor child. The employee shall provide the Human Resource
5 Office and his/her Department Head with as much advance notice as is practicable. The City may
6 require certification of the need for the leave, such as a police report; protective order;
7 documentation from a law enforcement officer, attorney, or victim services provider.

8 If approved, the employee must use paid leave (excluding sick leave) which includes time
9 management, vacation, compensatory time, or holiday time. If all paid time is exhausted, the
10 employee may request unpaid leave. Upon request from an employee, the City shall make
11 reasonable work safety accommodations for an employee that is victim of domestic violence,
12 sexual assault, or stalking.

13 P. Criminal Proceedings Leave. An employee who is a felony crime victim shall be allowed to
14 take leave to attend a felony criminal proceeding involving the employee or immediate family
15 defined as spouse, domestic partner, father, mother, sibling, child, stepchild and grandparent
16 (ORS 659A.192). The employee must provide reasonable advance notice of the leave, provide
17 copies of the notices of the criminal proceedings, have been employed with the City for at least
18 six **(6)** months, and worked an average of more than **twenty-five (25)** hours per week for at least
19 180 days immediately before the requested leave. The leave must not create an undue hardship
20 on the department. If approved, the employee must use paid leave (excluding sick leave) which
21 includes time management, vacation, compensatory time, or holiday time. The employee shall
22 not use sick leave. If all paid time is exhausted, the employee may request unpaid leave.

23 **SECTION 57.** Ashland Municipal Code 3.08.150 is hereby amended as follows:

24 **3.08.150 Termination of Employment**

25 A. Voluntary Terminations. To resign in good standing, an employee must give the employee's
26 Department Head or the City ~~Manager Administrator~~ a written notice of resignation at least
27 fourteen (14) calendar days prior to the effective date of the employee's resignation. The
28 employee's Department Head or the City ~~Manager Administrator~~ may agree to a shorter period
29 of notice if an employee so requests, in writing, and provides a suitable explanation for the
30 shorter notice period. An employee who fails to provide at least fourteen (14) calendar days

1 notice and fails to obtain permission for a shorter notice period may be ineligible for rehire.
2 Unless otherwise approved in advance by the employee's Department Head and the City
3 **Manager Administrator**, or as otherwise required by law, an employee who voluntarily resigns
4 must be present and on the job for one full week immediately prior to the employee's termination
5 date and must work on the termination date. If an employee takes any unauthorized leave during
6 the employee's final week of employment, the employee may be ineligible for rehire with the
7 City, and the City may, at its discretion, alter the employee's termination date.
8 Upon receipt of a notice of resignation, the City reserves the right, at the City's option, to
9 designate a termination date which is earlier than the termination date designated by the
10 employee. If the City elects to designate an earlier termination date, the City shall pay the
11 employee for all wages and leave that would have accrued and shall maintain all benefits to
12 which the employee would have been entitled if the employee had worked through the
13 termination date designated by the employee.

14 B. Involuntary Terminations.

15 1. Layoffs/reductions in force. Restructure of the organization, a reduction in budgeted
16 positions, lack of work, or shortage of funds may result in the layoff of employees. In the
17 event of layoff, the City may transfer affected employees into vacant positions for which the
18 affected employees are qualified, in the judgment of the hiring Department Head. When a
19 decision is made to lay off employees, the City will base layoff decisions on the following
20 factors:

- 21 a. Job skill level
- 22 b. Ability
- 23 c. Experience
- 24 d. Education
- 25 e. Training
- 26 f. Work record
- 27 g. History of discipline and/or corrective actions
- 28 h. Knowledge of the program, department, and organization
- 29 i. Special skills or certifications
- 30 j. Longevity with the City

1 Seniority may be considered when the qualifications and abilities of employees are relatively
2 equal. The City shall notify affected employees of a layoff at least thirty (30) calendar days
3 in advance of the layoff.

4 C. Loss of Longevity and Seniority.

- 5 1. An employee loses all longevity and seniority in the event of:
- 6 a. Voluntary termination for greater than three (3) months except under special
7 circumstances as approved by the City ~~Manager Administrator~~.
 - 8 b. Discharge for cause.
 - 9 c. A layoff period longer than eighteen (18) months.
 - 10 d. Failure to report to work at the termination of a leave of absence.
 - 11 e. Acceptance of other employment without permission of City while on a leave of
12 absence.
 - 13 f. Retirement.
- 14 2. Time off during a layoff period shall not count toward seniority or longevity accrual.
- 15 3. An employee shall not lose seniority with a department if the employee transfers from
16 one division or position to another division or position within the same department.

17 D. Recall After Layoff. If approval is given to rehire after a layoff, employees will be rehired in
18 the inverse order of lay off; that is, employees laid off last shall be called back first. Employees
19 shall retain a right to recall for eighteen (18) months from the effective date of a layoff. If
20 employees are recalled from a layoff, the following recall procedures shall be followed:

- 21 **1a.** For layoffs of less than five (5) days, employees may be notified of recall in person or
22 by telephone and shall have until the next work day following the notification to report to
23 work.
- 24 **2b.** For layoffs of five (5) days to one month in duration, employees shall be notified of
25 recall by first class mail and by certified mail, return receipt requested, sent to the employee
26 at the employee's last known address, and the employee shall have seven (7) days from the
27 date the certified notice of recall is mailed to report to work.
- 28 **3e.** For layoffs longer than one month in duration, employees shall be notified of recall by
29 first class mail and by certified mail, return receipt requested, sent to the employee's last
30 known address, and the employee shall have fourteen (14) days from the date the certified

1 notice of recall is mailed to report to work.

2 Employees are obligated to notify the City Human **Resources Department Resource Office** in
3 writing of any change of address for the employee. Unless a longer period to report to work
4 following a notice of recall is agreed to in writing by the City, employees shall report to work
5 within the applicable time period specified in **Subsection 1, 2, or 3 section i, ii or iii** above. If an
6 employee does not respond to a notice of recall within the applicable time period designated in
7 this section, the employee shall lose all recall rights.

8 E. Death. In the event of the death of a City employee, all wages and all eligible leave earned
9 and unpaid to the employee shall be paid to the employee's designated PERS/OPSRP beneficiary
10 or, in the absence of such, the employee's estate.

11 F. Final Paycheck. Final paychecks will be delivered to terminated employees in accordance
12 with Oregon law. Employees shall be paid for all eligible accrued and unused leave at the time of
13 termination. Payment for any eligible accrued and unused leave shall be paid with the
14 employee's final paycheck and shall be paid at the employee's rate of pay in effect at the time of
15 termination.

16 G. Exit Interviews.

17 1. Purpose. The purpose of the exit interview is:

18 a. To gain insight into the effectiveness of City personnel and management practices, to
19 determine where personnel policies and procedures may be in need of review or revision,
20 to determine whether supervisory or managerial practices need review, modification or
21 improvement, and to obtain other information which could be of assistance to the City
22 and the employee's department.

23 b. To provide the employee with information related to the employee's separation from
24 employment with City, including, but not limited to, information related to continuation
25 of health benefits for the employee and eligible dependents of the employee.

26 2. Conducting the exit interview. Unless waived by the City **Manager Administrator** or
27 refused by the employee, an exit interview is to be conducted with every employee
28 separating from a benefited City position, regardless of length of service, position, or the
29 circumstances of separation.

30 3. Responsibility of Human **Resources Department Resource Office**. Although

1 departments may also conduct interviews with terminating employees, the Human **Resources**
2 **Department Resource Office** shall conduct all City exit interviews. The Human **Resources**
3 **Department Resource Office** will analyze the results of each interview to determine how
4 the information received may relate to current personnel policies and procedures and whether
5 any changes in City employment policies or procedures may be needed or beneficial.

6 4. Timing of exit interview. The employee's Department Head is responsible for notifying
7 the Human **Resources Department Resource Office** as soon as the Department Head learns
8 an employee is separating from City employment. The Human **Resources Department**
9 **Resource Office** will then schedule a time for the exit interview.

10 5. Forms and records. The results of exit interviews will be recorded on forms prescribed by
11 the Human **Resources Department Resource Office**. The record of the interview shall be
12 maintained by the Human **Resources Department Resource Office**.

13 **SECTION 58.** Ashland Municipal Code 3.12.040 is hereby amended as follows:

14 **3.12.040 Enforcement**

15 A. Compliance with this chapter shall be required in all City contracts to which it applies. Such
16 contracts shall provide that upon a violation of any provision of this chapter the recipient,
17 contractor or subcontractor who is out of compliance shall have thirty days to come into
18 compliance. Such contracts shall further provide that after **thirty** (30) days if the recipient,
19 contractor or subcontractor remains out of compliance, the City may terminate the contract and
20 otherwise pursue legal remedies that may be available including the repayment of, or payment
21 for, all or part of the financial assistance provided. If a recipient, contractor, or subcontractor
22 violates the provisions of this chapter twice, the City may terminate all contracts already in force
23 and that recipient, contractor, or subcontractor shall be prohibited from receiving City financial
24 assistance or contracting with the City for a period of two **(2)** years.

25 B. An employee claiming violation of this chapter may report such action to the City. The City
26 **Manager Administrator** may establish a procedure for receiving and investigating such
27 complaints and take appropriate enforcement action. An employee claiming violation of this
28 chapter may choose to bring an action in the Circuit Court of Oregon against an employer and
29 may be awarded back pay for each day during which the employer failed to pay the employee the
30 required living wage. As additional damages the employee shall be awarded an amount equal to

1 an hour's pay for each hour the employee was not paid the amount required in AMC Section
2 3.12.030 and any additional injunctive relief necessary and appropriate under the circumstances.
3 Notwithstanding the above for employees hired as part-time or seasonal workers [i.e., with a
4 1040-hour limit per calendar year] back pay shall be limited to an award of the pay differential
5 and penalty commencing with the 1041st hour of employment. ~~The court shall award~~
6 ~~reasonable attorney's fees and costs to an employee who prevails in any such enforcement~~
7 ~~action.~~ The damage provision of this section shall not apply if such violation was deemed to be
8 unintentional on the part of the employer and the employer paid the required back pay for each
9 day the violation of this chapter occurred.

10 C. The statute of limitations for this chapter shall be two (2) years from the time of the alleged
11 violation of this chapter.

12 **SECTION 59.** Ashland Municipal Code 4.18.030 is hereby amended as follows:

13 **4.18.030 Review by Planning Commission**

14 Upon receipt of the petition, the same shall be referred to the City Recorder Engineer for a
15 determination of whether it contains the requested number of sworn signatures. The City
16 Recorder Engineer shall return any petition not meeting the requirements of ORS 271.080,
17 together with the filing fee to the petitioner. If the City Recorder Engineer determines that the
18 petition is sufficient, it shall be referred to the City Planning Commission for ~~its their~~ review
19 and recommendation to the City Council. The Planning Commission shall submit its report to the
20 City Council within sixty (60) days of receipt. Upon receipt of the report by the Commission, or
21 if no report is received from the Commission, upon the expiration of sixty (60) days, the City
22 Manager Administrator shall set the matter for public hearing as set forth in ORS 271.100, *et*.
23 *seq.*

24 **SECTION 60.** Ashland Municipal Code 4.20.040 is hereby amended as follows:

25 **4.20.040 Systems Development Charge Established**

26 A. Unless otherwise exempted by the provisions of this chapter or other local or state law, a
27 systems development charge is hereby imposed upon all development within the City; and all
28 development outside the boundary of the City that connects to or otherwise uses the sanitary
29 sewer system, storm drainage system or water system of the City. The City Manager
30 Administrator is authorized to make interpretations of this section, subject to appeal to the City

1 Council.

2 B. Systems development charges for each type of capital improvement may be created through
3 application of the methodologies described in ~~AMC Section~~ 4.20.050. The amounts of each
4 system development charge shall be adopted initially by Council resolution following a public
5 hearing. Changes in the amounts shall also be adopted by resolution following a public hearing,
6 except changes resulting solely from inflationary cost impacts. Inflationary cost impacts shall be
7 measured and calculated annually by the City ~~Manager Administrator~~ and charged
8 accordingly. Such calculations will be based upon changes in the Engineering News Record
9 Construction Index (ENR Index) for Seattle, Washington.

10 **SECTION 61.** Ashland Municipal Code 4.20.050 is hereby amended as follows:

11 **4.20.050 Methodology**

12 A. The methodology used to establish a reimbursement fee shall consider the cost of then-
13 existing facilities, prior contributions by then-existing users, gifts or grants from federal or state
14 government or private persons, the value of unused capacity, rate-making principles employed to
15 finance publicly owned capital improvements, and other relevant factors identified by the City
16 Council. The methodology shall promote the objective that future systems users shall contribute
17 an equitable share of the cost of then-existing facilities.

18 B. The methodology used to establish the improvement fee shall consider the cost of projected
19 capital improvements identified in an improvement plan (see ~~AMC Section~~ 4.20.080) that are
20 needed to increase the capacity of the systems to which the fee is related.

21 C. The methodologies used to establish the systems development charge shall be adopted by
22 resolution of the Council following a public hearing.

23 1. The City shall provide written notice to persons who have requested notice of any
24 adoption or modification of SDC methodology at least ninety (90) days before the hearing. If
25 no one has requested notice, the City shall publish notice in a newspaper of general
26 circulation in the City at least ninety (90) days before the hearing.

27 2. The revised methodology shall be available to the public at least sixty (60) days before
28 the first public hearing of the adoption or amendment of the methodology.

29 D. A change in the amount of a reimbursement fee or an improvement fee is not a modification
30 of the SDC methodology if the change is based on a change in project costs, including cost of

1 materials, labor and real property, or on a provision for a periodic adjustment included in the
2 methodology or adopted by separate ordinance or resolution, consistent with State law.

3 E. A change in the amount of an improvement fee is not a modification of the SDC
4 methodology if the change is the result of a change in the improvement plan adopted in accord
5 with **AMC Section** 4.20.080.

6 F. The formulas and calculations used to compute specific systems development charges are
7 based upon averages and typical conditions. Whenever the impact of individual developments
8 present special or unique situations such that the calculated fee is grossly disproportionate to the
9 actual impact of the development, alternative fee calculations may be approved or required by
10 the City **Manager Administrator** under administrative procedures prescribed by the City
11 Council. All data submitted to support alternate calculations under this provision shall be site
12 specific. Major or unique developments may require special analyses to determine alternatives to
13 the standard methodology.

14 G. When an appeal is filed challenging the methodology adopted by the City Council, the City
15 **Manager Administrator** shall prepare a written report and recommendation within twenty (20)
16 working days of receipt for presentation to the Council at its next regular meeting. The Council
17 shall, by resolution, approve, modify or reject the report and recommendation of the City
18 **Manager Administrator**, or may adopt a revised methodology by resolution, if required. Any
19 legal action contesting the City Council's decision in the appeal shall be filed within sixty (60)
20 days of the Council's decision.

21 **SECTION 62.** Ashland Municipal Code 4.20.090 is hereby amended as follows:

22 **4.20.090 Collection of Charge**

23 A. The systems development charge is payable upon, and as a condition of, issuance or
24 approval of:

- 25 1. A building permit;
- 26 2. A development permit;
- 27 3. A permit for a development not requiring the issuance of a building permit;
- 28 4. A permit or other authorization to connect to the water, sanitary sewer or storm drainage
29 systems;
- 30 5. A right-of-way access permit; or

1 6. A planning action or change in occupancy (as defined in the Uniform Building Code) that
2 will increase the demands on any public facility for which systems development charges are
3 charged.

4 B. If development is commenced or connection is made to the water system, sanitary sewer
5 system or storm sewer system without an appropriate permit, the systems development charge is
6 immediately payable upon the earliest date that a permit was required, and it will be unlawful for
7 anyone to continue with the construction or use constituting a development until the charge has
8 been paid or payment secured to the satisfaction of the City ~~Manager Administrator~~.

9 C. Any and all persons causing a development or making application for the needed permit, or
10 otherwise responsible for the development, are jointly and severally obligated to pay the charge,
11 and the City ~~Manager Administrator~~ may collect the said charge from any of them. The City
12 ~~Manager Administrator~~ or his/her designee shall not issue any permit or allow connections
13 described in Subsection A of this section until the charge has been paid in full or until an
14 adequate secured arrangement for its payment has been made, within the limits prescribed by
15 resolution of the City Council.

16 D. An owner of property obligated to pay a system development charge may apply to pay the
17 charge in semi-annual installments over a period not exceeding ten years as provided in this
18 section.

19 1. The minimum charge subject to payment by installments shall be \$2,000 and the
20 maximum charge that may be subject to payment by installments shall not exceed \$200,000.
21 The minimum semi-annual installment shall be \$1,000. Installments shall include interest on
22 the unpaid balance at annual rate of six percent (6%) for a five-year installment loan or seven
23 percent (7%) for a 10-year installment loan. A one-year installment loan shall not be subject
24 to an annual interest rate provided all charges are paid prior to the City's issuance of the
25 Certificate of Occupancy, time of sale, or within one year of when the charge was imposed,
26 whichever comes first.

27 2. The installment application shall state that the applicant waives all irregularities or
28 defects, jurisdictional or otherwise, in the proceedings to cause the system development
29 charge.

30 3. The application shall also contain a statement, by lots or blocks, or other convenient

1 description of the property meeting the requirements of ORS 93.600, subject to the charge.

2 4. A systems development charge subject to installment payments shall be chargeable as a
3 lien upon the property subject to the charge. Pursuant to ORS 93.643(2)(c), the City Recorder
4 shall record notice of the installment payment contract with the Jackson County Clerk. The
5 applicant shall pay the recording charges.

6 **SECTION 63.** Ashland Municipal Code 4.20.110 is hereby amended as follows:

7 **4.20.110 Credits**

8 A. When development occurs that gives rise to a system development charge under **AMC**
9 **Section** 4.20.040, the system development charge for the existing use shall be calculated and if it
10 is less than the system development charge for the proposed use, the difference between the
11 system development charge for the existing use and the system development charge for the
12 proposed use shall be the system development charge required under **AMC Section** 4.20.040. If
13 the change in use results in the systems development charge for the proposed use being less than
14 the system development charge for the existing use, no system development charge shall be
15 required; however, no refund or credit shall be given.

16 B. The limitations on the use of credits contained in this subsection shall not apply when credits
17 are otherwise given under this section. A credit shall be given for the cost of a qualified public
18 improvement associated with a development. If a qualified public improvement is located
19 partially on and partially off the parcel of land that is the subject of the approval, the credit shall
20 be given only for the cost of the portion of the improvement not attributable wholly to the
21 development. The credit provided for by this subsection shall be only for the improvement fee
22 charged for the type of improvement being constructed and shall not exceed the improvement fee
23 even if the cost of the capital improvement exceeds the applicable improvement fee. Credits paid
24 as a permit for development will expire five years after paid. The credit shall be apportioned
25 equally among all single-family residential lots (where such credit was granted for subdivisions).
26 Credits for other types of developments shall be allocated to building permits on a first-come,
27 first-served basis until the credit is depleted.

28 C. Applying the methodology adopted by resolution, the City **Manager Administrator** or
29 designee shall grant a credit against the improvement fee, for a capital improvement constructed
30 as part of the development that reduces the development's demand upon existing capital

1 improvements or the need for future capital improvements or that would otherwise have to be
2 provided at City expense under then existing Council policies.

3 D. Credits for additions to dedicated park land, or development of planned improvements on
4 dedicated park land, shall only be granted by the City ~~Manager~~ ~~Administrator~~ upon
5 recommendation by the Park and Recreation Commission for land or park development projects
6 identified in the Capital Improvement Plan, referred to in AMC Section 4.20.070.B.

7 E. In situations where the amount of credit exceeds the amount of the system development
8 charge, the excess credit is not transferable to another development. It may be transferred to
9 another phase of the original development.

10 F. Credit shall not be transferable from one type of capital improvement to another.

11 **SECTION 64.** Ashland Municipal Code 4.20.130 is hereby amended as follows:

12 **4.20.130 Segregation and Use of Revenue**

13 A. All SDC proceeds are to be segregated by accounting practices from all other funds of the
14 City. SDC proceeds shall be used only for capital improvement of the type for which they were
15 collected and authorized costs and overhead.

16 B. The City ~~Manager~~ ~~Administrator~~ shall provide the City Council with an annual
17 accounting, based on the City's fiscal year, for SDCs showing the total amount of SDC revenues
18 collected for each type of facility and the projects funded from each account in the previous
19 fiscal year. A list of the amounts spent on each project funded in whole or in part with SDC
20 revenues shall be included in the annual accounting.

21 C. The monies deposited into each SDC account shall be used solely as allowed by this chapter
22 and State law, including, but not limited to:

- 23 1. Design and construction plan preparation;
- 24 2. Permitting and fees;
- 25 3. Land, easements, and materials acquisition, including any cost of acquisition or
26 condemnation, including financing, legal and other costs;
- 27 4. Construction of capital improvements;
- 28 5. Design and construction of new utility facilities required by the construction of capital
29 improvements and structures;
- 30 6. Relocating utilities required by the construction of improvements;

- 1 7. Landscaping;
- 2 8. Construction management and inspection;
- 3 9. Surveys, soils, and materials testing;
- 4 10. Acquisition of capital equipment;
- 5 11. Repayment of monies transferred or borrowed from any budgetary fund of the City
- 6 which were used to fund any of the capital improvements as herein provided; and
- 7 12. Payment of principal and interest, necessary reserves and cost of issuance under bonds
- 8 or other indebtedness issued by the City to fund capital improvements.

9 **SECTION 65.** Ashland Municipal Code 4.20.140 is hereby amended as follows:

10 **4.20.140 Refunds**

- 11 A. Refunds shall be given by the City ~~Manager Administrator~~ upon finding that there was a
- 12 clerical error in the calculation of a system development charge.
- 13 B. Refunds shall not be allowed for failure to timely claim a credit under **AMC Section**
- 14 4.20.110, or for failure to seek an alternative system development charge rate calculation at the
- 15 time of submission of an application for a building permit.
- 16 C. Refunds may be given on application of a permittee if the development did not occur and all
- 17 permits for the development have been withdrawn.

18 **SECTION 66.** Ashland Municipal Code 4.20.150 is hereby amended as follows:

19 **4.20.150 Appeal Procedures**

- 20 A. As used in this section “working day” means a day when the general offices of the City are
- 21 open to transact business with the public.
- 22 B. A person aggrieved by a decision required or permitted to be made by the City **Manager**
- 23 ~~Administrator~~ or designee **pursuant to AMC under Sections** 4.20.010 through 4.20.130 or a
- 24 person challenging the propriety of an expenditure of systems development charge revenues may
- 25 appeal the decision or expenditure by filing a written **notice of appeal request** with the City
- 26 Recorder for consideration by the City Council. Such appeal shall describe with particularity the
- 27 decision or the expenditure from which the person appeals and shall comply with subsection D
- 28 of this section.
- 29 C. An appeal of an expenditure must be filed within two **(2)** years of the date of alleged
- 30

1 improper expenditure. An appeal petition challenging the adopted methodology shall be filed not
2 later than sixty (60) days from the date of the adoption of the methodology. Appeals of any other
3 decision must be filed within **ten (10)** working days of the date of the decision.

4 D. The appeal shall state:

- 5 1. The name and address of the appellant;
- 6 2. The nature of the determination being appealed;
- 7 3. The reason the determination is incorrect; and
- 8 4. What the correct determination should be.

9 An appellant who fails to file such a statement within the time permitted waives any objections,
10 and the appeal shall be dismissed.

11 E. Unless the appellant and the City agree to a longer period, an appeal shall be heard within
12 **thirty (30) calendar** days of the receipt of the written appeal. At least **ten (10)** working days
13 prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.

14 F. The City Council shall hear and determine the appeal on the basis of the appellant's written
15 statement and any additional evidence the appellant deems appropriate. At the hearing, the
16 appellant may present testimony and oral argument personally or by counsel. The City may
17 present written or oral testimony at this same hearing. The rules of evidence as used by courts of
18 law do not apply.

19 G. The appellant shall carry the burden of proving that the determination being appealed is
20 incorrect and what the correct determination should be.

21 H. The City Council shall render its decision within **fifteen (15) business** days after the hearing
22 date and the decision of the Council shall be final. The decision shall be in writing but written
23 findings shall not be made or required unless the Council, in its discretion, elects to make
24 findings for precedential purposes. Any legal action contesting the Council's decision on the
25 appeal shall be filed within **sixty (60) calendar** days of the Council's decision.

26 **SECTION 67.** Ashland Municipal Code 4.26.060 is hereby amended as follows:

27 **4.26.060 Enforcement**

28 Any charge due hereunder which is not paid when due may be recovered in an action at law by
29 the City. In addition to any other remedies or penalties provided by this or any other ordinance of
30 the City, failure of any user of City utilities within the City to pay said charges promptly when

1 due shall subject such user to discontinuance of any utility services provided by the City and the
2 City **Manager Administrator** is hereby empowered and directed to enforce this provision
3 against such delinquent users. The employees of the City shall, at all reasonable times, have
4 access to any premises served by the City for inspection, repair, or the enforcement of the
5 provisions of this chapter. In addition to any other remedy or penalty provided herein, failure to
6 remit the fee provided herein when due shall be considered a Class I violation and each day the
7 remittance is late shall constitute a separate offense.

8 **SECTION 68.** Ashland Municipal Code 4.27.080 is hereby amended as follows:

9 **4.27.080 Enforcement**

10 Any fee due which is not paid when due may be recovered in an action at law by the City. In
11 addition to any other remedies or penalties provided by this or any other **provision of the**
12 **Ashland Municipal Code** ~~City ordinance~~, failure of any person responsible to pay fees promptly
13 when due shall subject the person responsible to discontinuance of any utility services provided
14 by the City, and the City **Manager Administrator** is empowered and directed to enforce this
15 provision against such delinquent users. The employees of the City shall, at all reasonable times,
16 have access to any improved property served by the City for inspection, repair, or the
17 enforcement of the provisions of this chapter. In addition to any other remedy or penalty
18 provided herein, failure to remit the fee provided herein when due shall be considered a Class I
19 violation and each day the remittance is late shall constitute a separate offense.

20 **SECTION 69.** Ashland Municipal Code 4.28.070 is hereby amended as follows:

21 **4.28.070 Powers and Duties of Director of Finance**

22 The Director of Finance of the City shall have the power and duty, and is hereby directed to
23 enforce each and all of the provisions of this Chapter. The Director of Finance, subject to the
24 prior approval of the City **Manager Administrator** and City Attorney, shall have power to
25 adopt rules and regulations not inconsistent with the provisions of this Chapter for the purpose of
26 carrying out and enforcing the payment, collection and remittance of the taxes herein imposed;
27 and a copy of such rules and regulations shall be on file and available for public examination in
28 the office of the Director of Finance.

29 **SECTION 70.** Ashland Municipal Code 4.32.180 is hereby amended as follows:

30 **4.32.180 Appeal of Suspension Orders**

1 A. Any person who is sent a notice of suspension under **AMC Section** 4.32.170 may appeal the
2 suspension action to the City Council by giving written notice to the City Recorder within thirty
3 (30) days after mailing of the notice of suspension. The filing of a Notice of Appeal shall stay the
4 suspension until disposition of the appeal by the Council.

5 B. The City **Manager Administrator** shall place the appeal on the City Council agenda to be
6 heard within thirty (30) days of the date of filing. At the hearing, the appellant and the Chief
7 shall be given an opportunity to present whatever facts or arguments they deem relevant to the
8 suspension of the permit; provided, however, that the City Council shall not review any dispute
9 concerning the validity of the false alarm charges.

10 **SECTION 71.** Ashland Municipal Code 4.35.020 is hereby amended as follows:

11 **4.35.020 Imposition of Specific Fees and Charges**

12 A. Uncontested noncriminal violations/mail. The fees for Court Costs shall be incorporated
13 into a bail schedule published by the City **Manager Administrator** or designee in accordance
14 with **the Ashland Municipal City** Code. The Court Costs shall be incorporated into the base
15 fine amount in the bail schedule, resulting in a higher base fine for violation citations issued by
16 the City Police and Code Compliance Officers.

17 B. Trials. The Court or Violations Bureau in a criminal action shall impose the fees for Trial or
18 Default Judgments, if applicable, only when a defendant is found guilty after a trial.

19 C. Other Fees and Charges. The Court shall impose all applicable fee(s) and charge(s) as set **by**
20 **forth in the a** resolution **of the City Council**, unless a waiver or reduction is granted in
21 accordance with AMC 4.35.030 or applicable law. All applicable fees shall be reflected on any
22 judgment or agreement.

23 D. The Court shall not impose fees or charges when the charge is dismissed **upon a by** motion
24 of the City Attorney, for whatever reason, including a plea bargain. For purposes of this section,
25 fees and charges shall not include restitution to the victim for an offense dismissed by plea
26 bargain. Routine motions to dismiss successfully completed diversions, deferred sentences,
27 compromises, mediations, and like actions shall not cause such actions to be exempt from fees
28 and charges under this section.

29 **SECTION 72.** Ashland Municipal Code 6.32.020 is hereby amended as follows:

30 **6.32.020 Definitions**

- 1 A. Administrator. The City ~~Manager Administrator of the City~~, or a designee.
- 2 B. Applicant. The person or persons submitting an application for a liquor license.
- 3 C. Application. The application forms supplied by the Oregon Liquor Control Commission.
- 4 D. City. The City of Ashland.

5 ~~E. Council. The City Council of the City of Ashland.~~

6 **SECTION 73.** Ashland Municipal Code 6.32.070 is hereby amended as follows:

7 **6.32.070 Appeal Procedures**

8 An appeal of the City Recorder’s recommendation pursuant to AMC 6.32.050 shall be processed
9 in accordance with the ~~Uniform Administrative Appeals Ordinance~~ AMC **Chapter** 2.30,
10 except that the appeal shall be filed and processed in the office of the City **Manager**
11 ~~Administrator~~. The appeal must be filed within ten (10) calendar days of the date of the letter or
12 personal notice from the City recorder stating that an unfavorable recommendation will be made
13 to the City Council.

14 **SECTION 74.** Ashland Municipal Code 6.36.020 is hereby amended as follows:

15 **6.36.020 Mandatory Requirements**

16 All makers are responsible for the safety of film participants, spectators and the general public
17 throughout the duration of the film production.

18 All film makers are responsible for minimizing inconvenience and disruption to citizens,
19 businesses and city services.

20 A film permit is required for any film activities that will result in street closures or street
21 obstructions; sidewalk closures or obstructions; exclusive parking for longer than 24 hours or
22 longer than posted time limits; or exclusive use of city property or facilities.

23 All film activities whether permitted or not permitted, must be conducted in full compliance with
24 Ashland Municipal Code and specifically including: **AMC** Chapter 9 (Health and Sanitation),
25 **AMC** Chapter 10 (Public Peace, Morals and Safety), **AMC** Chapter 11 (Vehicles and Traffic),
26 **AMC** Chapter 15 (Buildings and Constructions), **AMC Title Chapter** 18 (Land use).

27 In addition:

- 28 1. Before any filming on property not owned or controlled by the City takes place, the
29 consent or permission of the person who owns or controls the property is required
- 30 2. The film activity must not threaten or cause damage to public property.

- 1 3. *Cleanup.* Any filming on City-owned property must be conducted in an orderly fashion
2 with continuous attention to the storage of equipment not in use and the cleanup of trash and
3 debris. The area used must be clean of trash and debris within four (4) hours after completion
4 of filming at the scene and restored before conclusion of filming-related activities on the site.
5 If the site is not cleaned, repaired and restored to the City’s satisfaction, the City **Manager**
6 **Administrator** will have the necessary work performed and charge the cost of the necessary
7 work to the film maker.
- 8 4. The filming must not interfere with normal governmental or City operations.
- 9 5. The filming must not interfere with pedestrian or vehicular traffic unless a film permit is
10 secured.
- 11 6. The filming must not result in an increased fire hazard, and all proper safety precautions
12 must be taken.
- 13 7. As a courtesy to neighboring businesses and households, film makers must notify
14 neighbors within two hundred (200) feet radius of the film locations of filming activities at
15 least seventy-two (72) hours prior to the first day of filming at that location.
- 16 8. Film activities cannot block or pose tripping hazards for pedestrians’ access on
17 sidewalks, pathways, park land, etc.
- 18 9. Film activities cannot block parking spaces for longer than the stated limit or block
19 vehicular or cycle traffic in streets or bike lanes unless a film permit is secured.

20 **SECTION 75.** Ashland Municipal Code 6.36.030 is hereby amended as follows:

21 **6.36.030 Permit Required**

22 **A.** A film permit is required for all film activities that require the exclusive use of public
23 property.

24 **B A.** Any person desiring a film permit under the provisions of this chapter shall submit an
25 application on the appropriate form provided by the City **Manager Administrator** or **the City**
26 **Manager’s a** designee. Such application must be submitted at least ten (10) working days prior
27 to the date on which such person desires to conduct an activity for which a permit is required.
28 Applications received less than ten (10) days prior to filming will be subject to additional fees.

29 **SECTION 76.** Ashland Municipal Code 6.36.050 is hereby amended as follows:

30 **6.36.050 Permit Issuance - Conditions**

1 The City ~~Manager Administrator~~ shall issue a permit as provided for in this chapter when,
2 from a consideration of the application and from such other information as may be otherwise
3 obtained, it is found that:

4 A. The conduct of such activity will not unduly interfere with traffic or pedestrian movement or
5 endanger public safety.

6 B. No residential streets will be completely closed to traffic.

7 C. Directly affected residents and businesses will be notified, in writing, at least seventy-two
8 (72) hours prior to any filming.

9 D. The conduct of such activity will not unduly interfere with normal governmental or City
10 operations; threaten or result in damage or detriment to private or public property. Should the
11 City incur costs or expenditures for special accommodations and services, for repairs and
12 maintenance, or for personnel not reimbursed in advance by the applicant, the City shall bill the
13 applicant for such costs.

14 E. The conduct of such activity will not constitute a fire hazard and all proper safety
15 precautions will be taken.

16 F. The conduct of such activity will not require the diversion of so great a number of police
17 officers of the City as to interfere with normal police protection of other areas in the City.

18 G. The conduct of such activity would not unduly affect the public health, safety or general
19 welfare of residents or businesses in the immediate area.

20 **SECTION 77.** Ashland Municipal Code 6.36.060 is hereby amended as follows:

21 **6.36.060 Appeal**

22 The decision of the City ~~Manager Administrator~~ to issue, conditionally issue, or not issue a
23 permit is final unless appealed within ten (10) working days of the decision pursuant to ~~the~~
24 ~~uniform administrative appeals process in~~ AMC **Chapter** 2.30, except that the hearings
25 officer shall be someone other than the City ~~Manager Administrator~~ or a city employee
26 supervised by the City ~~Manager Administrator~~.

27 **SECTION 78.** Ashland Municipal Code 6.36.070 is hereby amended as follows:

28 **6.36.070 Cost of Additional Services**

29 If deemed necessary by the City ~~Manager Administrator~~, additional police, fire, lifeguard and
30 other City services shall be provided for the purpose of protecting, assisting and regulating the

1 proposed activity. The cost of providing such additional services shall be paid to the City by the
2 applicant. Any additional City services will be provided/coordinated through the City **Manager**
3 **Administrator** or a designee.

4 **SECTION 79.** Ashland Municipal Code 6.36.090 is hereby amended as follows:

5 **6.36.090 Filming Regulations**

6 A. Advance Notice for Approval. An applicant must submit a permit request at least ten (10)
7 working days prior to the date on which filming is due to begin.

8 B. Public Works Department. If the applicant must park equipment, trucks, and/or cars for
9 extended period where parking is typically not permitted, temporary “No Parking” Signs must be
10 posted. The applicant must also obtain permission if there is a need to string cable across
11 sidewalks, or from a generator to a service point.

12 C. Traffic Control. For filming that would impair traffic flow, an applicant must use certified
13 flaggers or local law enforcement personnel and comply with all traffic control requirements
14 deemed by the City to be necessary.

15 **1 a.** An applicant must furnish and install advance warning signs and any other traffic
16 control devices in conformance with the Oregon Temporary Traffic Control Handbook, State
17 of Oregon Department of Transportation. All appropriate safety precautions must be taken.

18 **2 b.** Traffic may be restricted to one 12-foot lane of traffic and/or stopped intermittently.
19 The period of time that traffic may be restricted will be determined by the City **Manager**
20 **Administrator**, based on location and time of day.

21 **3 e.** Any emergency roadwork or construction by the City of Ashland and/or private
22 contractors, under permit or contract to the City, will have priority over filming activities.

23 **4 d.** Parking Lots. When parking in a City parking lot, an applicant may be billed according
24 to the current rate schedule established by the City of Ashland. In order to assure the safety
25 of citizens, roads which serve as emergency service roads, must never be blocked. No
26 relocation, alteration, or moving of signage or structure will be permitted without prior
27 approval.

28 **5.e.** Notification. All resident and merchants within a two hundred (200) feet radius of the
29 film location must receive notice of filming at least 48 hours prior to the first day of filming.

30 D. Sanitary Facilities. The applicant must furnish one (1) portable toilet facility for each

1 twenty-five (25) persons or fraction thereof employed if the activity site is over five hundred
2 (500) feet from a public toilet facility or private toilet facility which is made available to
3 applicant and employees and kept open during said activity.

4 **SECTION 80.** Ashland Municipal Code 6.36.100 is hereby amended as follows:

5 **6.36.100 Conditions - Restrictions**

6 The applicant shall comply with any conditions or restrictions the City ~~Manager~~ **Administrator**
7 may impose as a condition to issuing a permit pursuant to the provisions of this chapter when
8 such conditions or restrictions relate to the provisions of **AMC Section** 6.36.060. No changes in
9 the date for which the permit has been issued shall be made without first obtaining approval of
10 the City ~~Manager~~ **Administrator**, and compliance with the established time limitations.

11 **SECTION 81.** Ashland Municipal Code 6.50.020 is hereby amended as follows:

12 **6.50.020 Definitions**

13 A. “Administrator” means the City ~~Manager~~ **Administrator** of the City of Ashland or his/her
14 designee.

15 B. “CFR Schedule I or Schedule II” means the controlled substances designated in the Code of
16 Federal Regulations Title 21, Chapter II, Part 1308.

17 C. “Company Principal” means a person who is an officer or director of a legal entity or has a
18 controlling interest in the entity, through ownership or control of 10% or more of the stock in the
19 entity or 10% or more of the total membership interest in the entity or 10% or more of the total
20 investment interest in the entity.

21 D. “Convicted” means found guilty by verdict or finding entered in a criminal proceeding in a
22 court of competent jurisdiction.

23 E. “Dispensary” means a medical marijuana dispensary.

24 F. “Financial Interest” exists when a person, the person’s immediate family, or a legal entity of
25 which the person is a company principal (1 receives or is entitled to receive directly or indirectly
26 any of the benefits of the dispensary; (2) rents or leases real property to the operator for use by
27 the business; (3) rents or leases personal property to the operator for a commercially
28 unreasonable rate; (4) lends or gives money, real property or personal property to the operator for
29 use in the business. For purposes of this section, monies owed to suppliers and contractors for the
30 reasonable cost of goods and services received do not constitute a financial interest in a

1 dispensary.

2 G. “Marijuana” means all parts of the plant of the Cannabis Moraceae, whether growing or not,
3 the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative,
4 mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes or
5 as they currently exist or may from time to time be amended. It does not include the mature
6 stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant,
7 any other compound, manufacture, salt, derivative, mixture, or predation of the mature stalks
8 (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant which
9 is incapable of germination.

10 H. “Medical Marijuana” means all parts of marijuana plants that may be used to treat or
11 alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the
12 patient’s debilitating medical condition.

13 I. “Medical Marijuana Dispensary” means a medical marijuana facility that is registered by the
14 Oregon Health Authority under ORS [475.300](#) to [475.346](#) and that sells, distributes, transmits,
15 gives, dispenses or otherwise provides medical marijuana to medical marijuana qualifying
16 patients.

17 J. “Medical Marijuana Qualifying Patient” means a registry identification cardholder (person
18 who has been diagnosed by a physician as having a debilitating medical condition) as further
19 defined by ORS 475.302(3) or the designated primary caregiver of the cardholder is defined by
20 ORS 475.302(5).

21 K. “Minor” means any person under 18 years of age.

22 L. “Operator” means the person who is the proprietor of a dispensary, whether in the capacity
23 of owner, lessee, sub-lessee, mortgagee in possession, licensee or any other capacity. If the
24 operator is a corporation, the term operator also includes each and every member of the
25 corporation’s Board of Directors whose directorship occurs in a period during which the
26 dispensary is in operation. If the operator is a partnership or limited liability company, the term
27 operator also includes each and every member thereof whose membership occurs in a period
28 during which the dispensary is in operation.

29 M. “Person” means natural person, joint venture, joint stock company, partnership, association,
30 club, company, corporation, business, trust, organization, or any group or combination acting as

1 a unit, including the United States of America, the State of Oregon and any political subdivision
2 thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

3 N. "Premises" means a location registered by the State of Oregon as a medical marijuana
4 dispensary and includes all areas at the location that are used in the business operated at the
5 location, including offices, kitchens, restrooms, storerooms, and including all public and private
6 areas where individuals are permitted to be present.

7 **SECTION 82.** Ashland Municipal Code 9.08.170 is hereby amended as follows:

8 **9.08.170 Unnecessary Noise**

9 A. Definitions. For the purposes of this section only, the following words shall have the
10 meaning provided in this **subsection paragraph**.

11 1. Emergency: **means** any occurrence or set of circumstances involving actual or imminent
12 physical trauma or property damage demanding immediate attention.

13 2. Emergency Work : **means** any work performed for the purpose of preventing or
14 alleviating physical trauma or property damage, whether actually caused or threatened by an
15 emergency, or work by private or public utilities when restoring utility service.

16 ~~3. City Administrator. the City Administrator of City or the City Administrator's~~
17 ~~designee.~~

18 ~~3 4.~~ Noise Sensitive Area : **means includes, but is not limited to,** real property normally
19 used for sleeping, or normally used as a school, church, hospital or public library.

20 ~~4 5.~~ Plainly audible : **means** any sound that can be detected by a reasonable person of
21 ordinary sensitivities using his or her unaided hearing faculties.

22 ~~5 6.~~ Public right-of-way : **means** any street, sidewalk, or similar place normally accessible
23 to the public which is owned or controlled by a government entity.

24 ~~6 7.~~ Public space : **means** any real property or structures on real property, owned by a
25 government entity and normally accessible to the public, including but not limited to parks
26 and other recreational areas.

27 ~~7 8.~~ Residential property : **means.** any real property located in a residentially zoned district
28 pursuant to the local land use code.

29 B. General Prohibition. No person shall make, continue, or assist in making:

30 1. Any unreasonably loud, disturbing, or raucous noise; or

1 2. Any noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose,
2 health, safety, or peace of reasonable persons of ordinary sensitivity, within the jurisdictional
3 limits of the City;

4 3. any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to
5 occasion unreasonable discomfort to any persons, or as to unreasonably interfere with the
6 peace and comfort of neighbors or their guests, or operators or customers in places of
7 business, or as to detrimentally or adversely affect such residences or places of business.

8 C. The standard for judging loud, disturbing and unnecessary noises shall be that of an average,
9 reasonable person with ordinary sensibilities after taking into consideration:

- 10 1. The character of the neighborhood in which the noise is made and the noise is heard;
- 11 2. The proximity of the sound to sleeping facilities, whether residential or commercial;
- 12 3. The land use, nature, and zoning of the area from which the sound emanates and the area
13 where it is received or perceived;
- 14 4. The time of day or night the sound occurs;
- 15 5. The duration of the sound; and
- 16 6. Whether the sound is recurrent, intermittent, or constant.

17 D. Noises Prohibited. The following acts are declared to be per se violations of this Ordinance.
18 This enumeration does not constitute an exclusive list:

19 1. Unreasonable Noises. The unreasonable making of, or knowingly and unreasonably
20 permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance,
21 commotion or vibration in any boarding facility, dwelling, place of business or other
22 structure, or upon any public street, park, or other place or building. The ordinary and usual
23 sounds, noises, commotion or vibration incidental to the operation of these places when
24 conducted in accordance with the usual standards of practice and in a manner which will not
25 unreasonably disturb the peace and comfort of adjacent residences or which will not
26 detrimentally affect the operators of adjacent places of business are exempted from this
27 provision.

28 2. Animals and Birds. Unreasonably loud and raucous noise emitted by an animal or bird
29 for which a person is responsible. A person is responsible for an animal if the person owns
30 controls or otherwise cares for the animal or bird.

1 3. Vehicle Horns, Signaling Devices, and Similar Devices. The sounding of any horn,
2 signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on
3 any right-of-way or in any public space of the City, for more than ten consecutive seconds.
4 The sounding of any horn, signaling device, or other similar device, as a danger warning is
5 exempt from this prohibition.

6 4. Nonemergency Signaling Devices. Sounding or permitting sounding of any amplified
7 signal from any bell, chime, siren, whistle or similar device, intended primarily for
8 nonemergency purposes, from any place for more than ten consecutive seconds in any hourly
9 period. The reasonable sounding of such devices by houses of religious worship, ice cream
10 trucks, seasonal contribution solicitors or by the City for traffic control purposes are exempt
11 from the operation of this provision.

12 5. Emergency Signaling Devices. The intentional sounding or permitting the sounding
13 outdoors of any emergency signaling device including fire, burglar, civil defense alarm,
14 siren, whistle, or similar emergency signaling device, except in an emergency or except as
15 provided in subsections (a) and (b), below.

16 a. Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00
17 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test
18 time exceed five minutes. Testing of the emergency signaling system shall not occur
19 more than once in each calendar month.

20 b. If a false or accidental activation of an alarm occurs more than twice in a calendar
21 month, the owner or person responsible for the alarm shall be in violation of this **chapter**
22 **Ordinance**.

23 6. Construction or Repair of Buildings, Excavation of Streets and Highways. The
24 construction, demolition, alteration or repair of any building or the excavation of streets and
25 highways other than between the hours of 7:00 a.m. and 7:00 p.m., on weekdays, and 8:00
26 a.m. and 6:00 p.m. on weekends and holidays, except in the case of an emergency in the
27 interest of the public welfare and safety. In cases of emergency, construction or repair noises
28 are exempt from this provision. In nonemergency situations, the City **Manager**
29 **Administrator** may issue a permit, upon application, if the City **Manager Administrator**
30 determines that the public health and safety, as affected by loud and raucous noise caused by

1 construction or repair of buildings or excavation of streets and highways between the hours
2 of 7:00 p.m. and 7:00 a.m. will not be impaired, and if the City **Manager Administrator**
3 further determines that loss or inconvenience would otherwise result. The permit shall grant
4 permission in nonemergency cases for a period of not more than five days. The permit may
5 be renewed once for a period of five **(5)** days or less. The actual owner of property may do
6 work on property which is owner occupied between the hours of 6:00 p.m. and 10:00 p.m.
7 without obtaining a permit under this paragraph.

8 7. Radios, Televisions, Boomboxes, Stereos, Musical Instruments and Similar Devices. The
9 use or operation of a radio, television, boombox, stereo, musical instrument, or similar device
10 that produces or reproduces sound in a manner that is plainly audible to any person other than
11 the player(s) or operator(s) of the device, and those who are voluntarily listening to the
12 sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and
13 passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial,
14 industrial area, or public space. The use or operation of a radio, television, boombox, stereo,
15 musical instrument, or similar device that produces or reproduces sound in a manner that is
16 plainly audible to any person other than the player(s) or operator(s) of the device, and those
17 who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and
18 comfort of neighbors in residential or noise sensitive areas, including multi-family or single-
19 family dwellings.

20 8. Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices. The
21 unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address
22 system, or other device for producing or reproducing sound is prohibited without a permit
23 from the City **Manager Administrator**. The City **Manager Administrator** may grant a
24 permit to responsible persons or organizations for the broadcast or amplification of sound as
25 a part of a national, state, or city event, public festival, or special events of a noncommercial
26 nature. If the City **Manager Administrator** does not grant the permit, the matter may be
27 appealed to an outside hearings officer pursuant to AMC **Chapter** 2.30. This permit shall not
28 be required for any public performance, gathering, or parade for which a permit authorizing
29 the event has been obtained from the City.

30 9. Yelling, Shouting, and Similar Activities. Yelling, shouting, hooting, whistling, or

1 singing in residential or noise sensitive areas or in public places, between the hours of 10:00
2 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort,
3 or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to
4 those situations where the disturbance is not a result of the content of the communication but
5 due to the volume, duration, location, timing or other factors not based on content.

6 10. Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, and Similar Institutions.
7 The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area
8 while it is in use, which unreasonably interferes with the workings of the institution or which
9 disturbs the persons in these institutions; provided that conspicuous signs delineating the
10 boundaries of the noise sensitive area are displayed in the streets surrounding the noise
11 sensitive area.

12 11. Blowers, and Similar Devices. In residential or noise sensitive areas, between the hours
13 of 9:00 p.m. and ~~8:00~~ ~~7:00~~ a.m., the operation of any noise-creating blower, power fan,
14 power tools or any internal combustion engine, the operation of which causes noise due to
15 the explosion of operating gases or fluids; provided, that the noise is unreasonably loud and
16 raucous and can be heard across the property line of the property from which it emanates.

17 12. Commercial Establishments Adjacent to Residential Property. Unreasonably loud and
18 raucous noise from the premises of any commercial establishment, including any outdoor
19 area which is part of or under the control of the establishment, between the hours of 11:00
20 p.m. and 7:00 a.m., which is plainly audible at from the property line of any residential
21 property.

22 The use of a mechanical device operated by compressed air, steam, or otherwise, unless the
23 noise thereby created is effectively muffled

24 E. Generally sound measurements are not required for enforcement of this chapter; however,
25 sound measurements are required for enforcement pursuant to this section. If sound
26 measurements are taken, they shall be taken with a sound level meter in good operating
27 condition. Any source of noise which exceeds the following standards is considered a public
28 nuisance:

29 1. Decibel Noise Standards. Allowable Statistical Noise Levels in any One Hour:

30 7 a.m. to 9 p.m. 9 p.m. to 7 a.m.

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L50 – 50 DBA	L50 – 45 DBA
L10 – 55 DBA	L10 – 50 DBA
L1 – 60 DBA	L1 – 55 DBA

where:

- L50 = noise level exceeded 50% of the time
- L10 = noise level exceeded 10% of the time
- L1 = noise level exceeded 1% of the time

2. Where measured. Measurement of a noise source shall be made from the closest property line of a residential property.

3. Heat Pumps or Mechanical Devices.

a. No person shall operate a commercial or residential heat pump, air-conditioning unit, or similar mechanical device if noise levels from its operation exceed forty-five (45) DBA from the closest property line of a residential property on an adjacent parcel of land characterized as a noise sensitive area.

b. No person shall operate a commercial or residential heat pump, air-conditioning unit, or similar mechanical device that was installed prior to 1981 if noise levels from its operation exceed fifty (50) DBA from the closest property line of a residential property on an adjacent parcel of land characterized as a noise sensitive area.

c. Heat Pumps or Mechanical Devices is a Class II violation.

4. Variances. The Council may grant variance to the Decibel Noise Standards when it finds that strict compliance with the ordinance would cause an unusual and unreasonable hardship to a commercial or industrial use.

a. The Council shall notify all adjacent residential structures within 200 ft. of the proposed variance and shall hold the public hearing on the variance prior to making any decisions on the request for a variance.

b. The variance shall be the minimum necessary to alleviate the unreasonable hardship.

F. Exemptions.

1. Sounds caused by the following are exempt from the prohibitions set out in paragraph D and are in addition to the exemptions specifically set forth in paragraph D:

- 1 a. Sounds of regular vehicular traffic upon premises open to the public; provided, that
2 the prohibition of paragraph D.3 continues to apply.
- 3 b. Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems
4 used in case of fire, collision, civil defense, police activity, or imminent danger; provided,
5 that the prohibition contained in paragraph D.5 continues to apply.
- 6 c. The emission of sound for the purpose of alerting persons to the existence of an
7 emergency or the emission of sound in the performance of emergency work.
- 8 d. Sounds regulated by federal law, including, but not limited to, sounds caused by
9 railroads or airports.
- 10 e. Bell tower chimes.
- 11 f. Temporary Construction activities. Noise from temporary construction activities that
12 take place between 7:00 a.m. to 9 p.m.
- 13 g. Outdoor School and Playground Activities. Reasonable activities conducted on public
14 playgrounds and public or private school grounds, which are conducted in accordance
15 with the manner in which such spaces are generally used, including but not limited to,
16 school athletic and school entertainment events.
- 17 h. Other Outdoor Events. Athletic events, outdoor gatherings, public dances, shows and
18 sporting events, and other similar outdoor events; provided, that any required permits
19 have been obtained from the appropriate permitting authority.

20 G. Penalty. Any violation of this section is punishable as provided under AMC 9.08.990.

21 **SECTION 83.** Ashland Municipal Code 9.22.040 is hereby amended as follows:

22 **9.22.040 Exemptions**

23 The City ~~Manager Administrator~~, or designee, may exempt a multi-family complex from the
24 requirements of this chapter upon a showing by the applicant that the conditions of this chapter
25 would cause undue hardship. The phrase “undue hardship” shall be construed to include, but not
26 be limited to:

- 27 1. Situations where the physical environment of an existing complex cannot be reasonably
28 adapted to provide the opportunity to recycle;
- 29 2. Situations where the opportunity to recycle is being met in some other manner; or
- 30 3. Situations where compliance with the requirements of this ~~chapter Ordinance~~ would

1 deprive a person of a legally-protected right.

2 **SECTION 84.** Ashland Municipal Code 9.24.040 is hereby amended as follows:

3 **9.24.040 Restrictions ~~on~~ of Wood Burning and Emissions on High Pollution Days**

4 A. Operation of Solid Fuel Burning Device Prohibition.

5 1. The operation of solid fuel burning device within the City of Ashland during a high
6 pollution period shall be prohibited unless an exemption has been granted pursuant to section
7 9.24.040.B. A presumption of violation for which a citation shall be issued shall arise if
8 smoke is being discharged through a flue or chimney after a time period of three **(3)** hours
9 has elapsed from the time of declaration of the high pollution period.

10 2. Notwithstanding subsection 9.24.040.A.1, the operation of an Oregon certified stove shall
11 be permitted during a high pollution period so long as no visible emissions of smoke are
12 discharged through a flue or chimney after a time period of three hours has elapsed from the
13 time of the declaration of the high pollution period. The provisions of this subsection shall
14 not apply to emissions of smoke during the starting or refueling of a fire for a period not to
15 exceed **thirty (30)** minutes in any four **(4)**-hour period.

16 3. After June 30, 2000, no property owner within the City of Ashland shall rent or lease a
17 residential unit that is not equipped with a secondary source of heat other than a solid fuel
18 burning device, unless the landlord has a valid exemption under **sub**section 9.24.040.B.2.
19 Should a violation of this section occur it shall be attributable to the property owner and not
20 to the tenant or lessee.

21 B. Exemptions. It is permissible for a household to operate a solid fuel burning device within
22 the City of Ashland during a high pollution period when the head of that household has obtained
23 one of the following exemptions. Exemptions granted under this section shall expire on
24 September 1 of each year.

25 1. Economic Need. An exemption for an economic need to burn solid fuel for residential
26 space heating purposes may be issued to heads of households who can show their eligibility
27 for energy assistance under the Federal Department of Energy Low-income Energy
28 Assistance Program, as administered by ACCESS, Inc. or other approved entity.

29 2. Sole Source. An exemption may be issued to the heads of households who sign a
30 statement declaring their reliance on a solid fuel burning device as the sole source of heat for
their residence. Sole source exemptions shall not be issued after June 30, 2000, unless the

1 residence is approved for installation of an alternative heating source through a woodstove
2 replacement program guidelines or in the absence of such a program when the head of the
3 household can show that the family income is less than 80% of the median income level for
4 the Medford metropolitan area as established by the Federal Department of Housing and
5 Urban Development.

6 3. Special Need. Upon a showing of special need, as determined by the City **Manager**
7 ~~**Administrator**~~ or **the City Manager's** designee, a temporary exemption may be granted
8 authorizing the burning of a solid fuel burning device notwithstanding **Subsection**
9 9.24.040.A.1. "Special need" shall include, but not be limited to, occasions when a furnace
10 or central heating system is inoperable other than through the owner or operator's own
11 actions or neglect.

12 **SECTION 85.** Ashland Municipal Code 9.28.050 is hereby amended as follows:

13 **9.28.050 Training and Authorization**

14 A. No city employee shall use or apply any pesticide without prior training. Training shall
15 include effective and alternative methods of pest control as well as safety considerations. The
16 City ~~**Manager Administrator**~~ shall designate a city employee to be responsible for the creating
17 and overseeing a training and education program.

18 B. No city employee shall use or apply any pesticide mechanically or by hand without approval
19 of the employee's department head or the department head's designee and event specific
20 authorization from a certified applicator.

21 **SECTION 86.** Ashland Municipal Code 9.50.050 is hereby amended as follows:

22 **9.50.050 Franchise Agreement**

23 A. Franchise Award. No person shall do business in the collection and transport of solid waste
24 generated within the City without a current, valid City franchise. A franchise to provide solid
25 waste management and collection services, including recyclable materials and yard debris in the
26 service area of the City, shall be granted only after a determination of need for the service.

27 The determination of need is the responsibility of the City Council, which will seek the best
28 balance of the following objectives:

- 29 1. To ensure safe, efficient, economical, equitable and comprehensive solid waste service;
- 30 2. To avoid duplication of service that will cause inefficiency, excessive use of fuel,
increased traffic, and greater wear on streets;

- 1 3. To provide service in areas of marginal return;
- 2 4. To promote and encourage recycling and resource recovery;
- 3 5. To improve the likelihood of the franchise holder making a reasonable profit and thereby
- 4 encourage investment in modern equipment;
- 5 6. To cooperate with other governmental bodies by recognizing their service arrangements;
- 6 and
- 7 7. To otherwise provide for the service in a manner appropriate to the public interest.

8 B. Renewal of Franchises.

- 9 1. In granting a franchise renewal, the Council may, in addition to the above, consider the
- 10 following:
 - 11 a. Volumes of solid waste collection and disposal;
 - 12 b. Volumes of recyclable materials and rate of participation in recycling;
 - 13 c. Customer satisfaction, including but not limited to customer complaints;
 - 14 d. Analysis of solid waste collection and recycling programs in other cities as compared
 - 15 to those of the City, including but not limited to program costs, funding mechanisms and
 - 16 overall rates of participation in recycling;
 - 17 e. Franchisee performance of its obligations under the franchise, including a
 - 18 franchisee's technical and financial capabilities;
 - 19 f. Franchisee ability to provide evidence of required insurance; and
 - 20 g. Franchisee responsiveness to customer or City complaints.
- 21 2. Franchises granted by the City shall be nonexclusive; however, it is understood that
- 22 during the term of franchises granted under this chapter, the City shall not grant any other
- 23 person a franchise for solid waste management services unless there is a showing by the
- 24 applicant of the need for such additional service in the proposed service area. As to such
- 25 application(s) the existing franchisee shall have first right of refusal to provide such services.
- 26 3. In evaluating whether a need exists for additional service, the City Council may consider,
- 27 among any other criteria deemed relevant by the City Council, the following items:
 - 28 a. An increase in the population of the City;
 - 29 b. An extension of the boundaries of the City;
 - 30 c. Intensive residential, commercial or industrial development within the boundaries of

- 1 the City;
- 2 d. Changes in solid waste technology and/or recycling collection technology that could
- 3 substantially improve collection service or reduce collection costs to residents of the City;
- 4 e. The effect that an additional franchise would have on each existing franchisee's
- 5 ability to meet the City's service standards and maintain a fair return on its investment;
- 6 f. Changes in federal or state laws, rules or regulations that substantially affect solid
- 7 waste or recycling collection requirements;
- 8 g. The franchisee cannot or will not perform or subcontract the proposed service.

9 This chapter does not prohibit any person from self-hauling solid waste and/or recyclables. A
10 generator may self-haul his or her own material, and a generator's contractor may haul materials
11 that are generated as a direct result of the service provider's activity. For example, landscapers,
12 roofers, and remodelers may self-haul materials, but may not contract with third parties other
13 than franchisees for collection and transport.

14 C. Franchise Terms. A franchise to provide solid waste management and collection services
15 shall be granted for a period of ten (10) years, beginning December 1, 2013, with subsequent
16 seven (7) year terms renewing annually, unless prior notice of request to terminate is submitted
17 by either the City or the franchisee a minimum of ninety (90) days prior to the renewal date.

18 D. Franchise Fee.

19 1. Annual Fee. In consideration of the rights and benefits of the terms of the franchise,
20 franchisee shall pay to the City each year during the life of the franchise beginning
21 November 1, 2013, an annual fee derived from revenue received by that franchisee from
22 solid waste management and collection service boundaries of the City. The franchise fee
23 shall be five percent (5%) of gross revenues.

24 2. Quarterly Payments. The franchise fee required in Subsection D.1 above shall be paid
25 quarterly, and shall be due and payable within thirty (30) days of the end of the calendar
26 quarter. Accompanying the payments described above, franchisee shall file with the City
27 **Manager Administrator** or designee a statement showing the amount of the gross revenues
28 received by that company within the City for the calendar quarter immediately preceding the
29 calendar quarter in which such statement is filed. There will be a reconciliation of final gross
30 revenues on the quarterly report ending September 30th of each year for the prior fiscal
period, which is October 1st through September 30th.

1 3. Review of Records – Annual Audit. Franchisee shall make available for inspection,
2 copying and review by the City ~~Manager Administrator~~ or the City Manager's designee at
3 any time during normal work hours all records in the franchisee's possession that the City
4 ~~Manager Administrator~~ or the City Manager's designee deems relevant to verifying the
5 accuracy of fees paid to the City, to regulating rates or to carrying out any responsibility that
6 the franchisee or the City has under this chapter. No more often than once during any twelve
7 (12) month period, City may request an audit of the books, records and accounts of
8 franchisee by a certified public accountant or such other professional chosen by the City to
9 verify accuracy of fees paid to the City, subject to the approval of the audited franchisee;
10 provided, however, that such approval shall not be unreasonably withheld. Franchisee agrees
11 to have their books, records and accounts audited and further agrees to pay for such auditing
12 services. The report of the certified public accountant or other professional shall be
13 conclusive and final. In the event such audit report discloses any difference of payment due
14 either to the City or franchisee through error or otherwise, such payment shall be due and
15 payable within thirty (30) days of discovery or determination of the error. If payment is owed
16 by the City to franchisee, the City shall reimburse the franchisee for payment for the portion
17 of the services attributable to the audit of the franchisee receiving such payment from the
18 City. If payment is owed by franchisee to the City, and the difference of payment due is
19 more than the greater of five hundred dollars (\$500.00) or two and one-half percent (2½%) of
20 the franchisee franchise fee, or if the franchisee is found to have violated any other term or
21 condition of the franchise, then, notwithstanding any other provision of this section or the
22 franchise, the City may request an additional audit during the next twelve (12) month period
23 with all expenses of such additional audit paid by such franchisee.

24 4. Late Payments – Interest. Should franchisee fail or neglect, for thirty (30) days after any
25 quarterly payment shall become due and payable, to make the quarterly payment, the City
26 shall provide written notice of failure of payment to franchisee. Upon notification of failure
27 to pay, franchisee will have thirty (30) days to remit payment to the City. If franchisee fails
28 to pay within said thirty (30) day period, the City may charge interest retroactive to the due
29 date, at a rate of nine percent (9%) per annum, and may at its option either continue the
30 franchise in force and proceed by suit or action to collect the payment, or declare a forfeiture

1 of the franchise because of the failure to make payment, but without waiving its right to
2 collect earned franchise payments and interest.

3 E. Franchise Administrative Operations Standards and Rules. The solid waste management and
4 collections franchisee will operate within operations standards set by resolution of the City
5 Council. Standards and rules will be developed across all customer classifications including, but
6 not limited to, the following:

7 1. Service Rates and Fees. Rate and fee schedule for all collection services, programs by
8 customer classification.

9 2. Collections.

10 a. Regular, holiday and hazardous weather schedules.

11 b. Procedures for missed, bulky waste, vacation hold, etc., collections.

12 c. Collection receptacle standards and requirements.

13 d. Receptacle location requirements for pick-up.

14 e. Private property access rights and limitations.

15 f. Responsibilities of the customer.

16 g. Vehicle minimum equipment, maintenance standards, identification/signage and
17 standards.

18 3. Customer Service and Communications.

19 a. Billing standards and frequency.

20 b. Billing/collection procedures for past due/nonpay accounts.

21 c. Descriptions, objectives and targets for all services provided across all customer
22 classifications.

23 d. Solid waste related programs, education and event promotion.

24 e. Complaint/dispute resolution procedures.

25 f. Community communications and outreach plan coordination with City outlining roles
26 and responsibilities of City and franchisee.

27 4. Reporting (in Addition to Chapter-Required Reporting).

28 a. Efficiency analysis reports for routes, billing/collections, etc.

29 b. Revenue and subscription volume reports by solid waste category (trash, recycle, yard
30 waste) for various customer classifications (residential and commercial). Debris box

- 1 volumes will be measured by dump and return and/or pull activities.
- 2 c. Customer counts and trends over time for residential and commercial customer
- 3 classifications. Debris box load counts will be reported in lieu of debris box customer
- 4 counts.
- 5 F. Subcontracting Services. A franchisee may contract with another person to provide specific
- 6 components of solid waste management and collection services within the franchisee's service
- 7 area with the written approval of the City ~~Manager Administrator~~ or the Manager's designee;
- 8 provided, that the subcontract does not amount to a transfer of the collection franchise and the
- 9 subcontracting party agrees to:
- 10 1. Abide by the conditions of this chapter and associated resolutions; and
- 11 2. In written application to the City, show how they will meet the criteria applying to the
- 12 current franchise.
- 13 G. Transfer of Franchise.
- 14 1. A proposed assignment or transfer of a franchise must be requested by the franchisee if
- 15 the following occur, but shall not be limited to:
- 16 a. A sale, exchange or other transfer of fifty percent (50%) or more of franchisee's
- 17 assets dedicated to service in the City;
- 18 b. A sale, exchange, or other transfer of fifty percent (50%) or more of the outstanding
- 19 common stock of a franchisee;
- 20 c. Any reorganization, consolidation, merger, recapitalization, voting trust, pooling
- 21 agreement, escrow arrangement, liquidation or other transaction to which franchisee or
- 22 any of its shareholders is a party which results in a change of ownership or control of
- 23 fifty percent (50%) or more of the value or voting rights in the stock of the franchisee;
- 24 and
- 25 d. Any combination of the foregoing that has the effect of a transfer or change of
- 26 ownership and control.
- 27 2. The franchisee shall provide no less than ninety (90) days' advance written notice to the
- 28 City of any proposed transfer or assignment. Except as specifically authorized by the City,
- 29 the franchisee shall not assign any of its rights or delegate or otherwise transfer any of its
- 30 obligations to any other person without the prior consent of the City Council. Any such

1 assignment without the consent of City Council shall be void and any such attempted
2 assignment shall constitute default and grounds for termination of the franchise.

3 3. If a franchisee requests the City's consent to transfer the franchise, the City shall act on
4 such request within sixty (60) days of the receipt of the franchisee's written request together
5 with all information, as set forth below, required for the City's action on the request. The
6 City and franchisee may consent in writing to additional time for the City to review and
7 approve the consent to transfer the franchise. The City shall not unreasonably refuse to
8 consent to an assignment of the franchise to a proposed assignee that has sufficient
9 knowledge, experience, and financial resources so as to be able to meet, to the satisfaction of
10 the City Council, in its sole discretion, all obligations of the franchisee hereunder. An
11 application to the City to consider a sale or other transfer of a franchise shall include the
12 following:

- 13 a. A nonrefundable application fee of two thousand dollars (\$2,000.00) payable at the
14 time of application to the City in advance to defray the City's anticipated expenses and
15 costs resulting from the franchisee's request;
- 16 b. Financial statements audited or reviewed by a certified public accountant of the
17 proposed assignee's operations for the three (3) immediately preceding operating years
18 together with any additional evidence of financial ability to perform its franchise
19 obligations; and
- 20 c. A showing that the proposed assignee meets all City criteria for the grant of a
21 franchise as enumerated in this chapter.

22 H. Establishment and Modification of Service Rates and Fees. Except as set forth herein, the
23 City Council may review and set rates on an annual basis by Council resolution that considers
24 the following goals:

- 25 1. Rates shall be established to the greatest extent practicable on a cost-of-service basis
26 based on the ordinance-established cost allocation methodology.
- 27 2. Rates shall be adjusted annually by Council resolution equal to the percentage change in
28 the January-to-January Consumer Price Index for Pacific Division (CPI – Pacific) but not to
29 exceed the twelve percent (12%) operating margin cap. The City ~~Manager Administrator~~
30 or the City Manager's designee shall certify the CPI – Pacific rate in writing to franchisee

1 by March 1st of each year to initiate the rate resolution.

2 3. Rates shall be adequate to provide an operating margin equal to ten percent (10%) of
3 franchise-wide gross revenues; however, the City shall not be required to change rates if the
4 expected operating margin in the next future year falls between eight (8%) and twelve
5 percent (12%) of gross revenues. The ten percent (10%) target return on gross revenues is
6 considered sufficient to reflect the level of business risk assumed by the franchisee, to allow
7 investment in equipment, and to ensure quality collection service.

8 Accordingly, the City shall have the authority to commission audits, reviews, or analyses of
9 franchisee annual reports to validate submissions. The expected operating margin in a future
10 year would incorporate expected inflation factors, and the effect of known or expected
11 increases or decreases in expenses or revenues. The rates charged by franchisees shall
12 conform to the most current Council resolution. Prior to implementation, the Council must
13 approve any interim rate for services not included in the current resolution. If the franchisee
14 notifies the City in writing that they believe a material change outside the franchisee's
15 control has occurred, and the change will have an adverse effect on operating margins, such
16 that the next future year operating margins will be less than eight percent (8%), a material
17 change will be deemed to have occurred. At that time, the City may undertake any type of
18 review it finds necessary to validate the existence of the material change and estimate its
19 effect on the operating margin. If the results of the review are such that no rate adjustment is
20 warranted, persons requesting the review shall reimburse the City for reasonable costs
21 incurred during the investigation at the time the next payment of franchise fees is due.
22 If the City believes that a material change has occurred that will result in next future year
23 operating margins falling under eight percent (8%) or over twelve percent (12%), the City
24 may undertake an abbreviated rate review at its own expense.

25 **SECTION 87.** Ashland Municipal Code 9.50.060 is hereby amended as follows:

26 **9.50.060 Franchise Reporting Requirements**

27 A. Informational Reports. Each franchisee shall provide the City ~~Manager Administrator~~ or
28 designee by the last day of each quarter for the previous quarter:

- 29 1. A quarterly report listing the quantities of solid waste, yard waste and recyclable
30 materials by customer classification collected within the City during the previous calendar
quarter, the locations to which these materials were delivered, the number of customer

1 accounts, and other information requested by the City ~~Manager Administrator~~ or designee
2 and mutually agreed upon with franchisee.

3 2. A quarterly report listing the names and addresses of multifamily and commercial
4 customers that received waste evaluations during the reported quarter.

5 3. A summary of communication, marketing and educational outreach conducted by
6 franchisee during the reported quarter.

7 B. Quarterly Franchise Fee Reports. Franchisee shall complete and remit to the City a quarterly
8 franchise fee report not later than the last day of the month immediately following the end of the
9 quarter. At the time of payment of the quarterly franchise fees, the franchisee shall file with the
10 City ~~Manager Administrator~~ or the City Manager's designee a verified statement of quarterly
11 gross revenues for the period covered by the tendered fee. Such statements shall be public
12 records. Franchisee shall maintain books and records disclosing the gross receipts derived from
13 business conducted within the City, which shall be open at reasonable times for audit by the City
14 ~~Manager Administrator~~ or the City Manager's designee. Misrepresentation of gross revenue
15 shall be deemed material and a breach of the franchise contract and shall be cause to initiate the
16 process to terminate the franchise.

17 C. Annual Franchise Reports. Franchisees shall report revenues and expenses (allowable and
18 unallowable), in an income statement format, and provide a variety of information about
19 customer counts, service levels, disposal volumes, and recycling activities for all customer
20 classifications and for all programs identified in the Administrative Operations Standards and
21 Rules resolution adopted by Council. Franchisees shall report totals for all operations necessary
22 to adequately verify compliance with the cost allocation methodology as defined in this chapter
23 for expenses that share significant operational, management, and administrative expenses with
24 the City of Ashland franchise. Resources allocated from regional or corporate offices or affiliates
25 shall be distributed to appropriate expense line items, and shall also be disclosed in a schedule
26 describing total allocations and their distribution to individual expense line items. All allocations
27 from affiliated companies must be described and must be equal to or less than the fair market
28 value of similar goods and services purchased from a nonaffiliated company. The report will
29 also include a synopsis of the operating year, a description of the measures each franchisee has
30 taken in the preceding year to make its operation more efficient, a listing of the efficiency

1 measures which each franchisee proposes to take in the next year, a composite table showing the
2 type and number of customer service complaints and a description of the measures that the
3 franchisee has taken or is planning to take to correct the cause of commonly reported complaints,
4 and such other information as requested by the City ~~Manager Administrator~~ or the City
5 Manager's designee. The report shall also describe and quantify communication, outreach and
6 educational activities as described in the Administrative Operations Standards and Rules
7 resolution. Franchisees may identify specific information submitted to the City in the annual
8 report as confidential. The City shall treat any information marked "Confidential" as such, and
9 shall not subject the confidential information to public disclosure except as required by law. If
10 the City receives a request for disclosure of confidential information, the City Manager
11 ~~Administrator~~ or the City Manager's designee shall notify the franchisee within a reasonable
12 time after receiving the request so as to allow the franchisee a reasonable opportunity to defend
13 against the requested disclosure through the appropriate legal process.

14 **SECTION 88.** Ashland Municipal Code 9.50.070 is hereby amended as follows:

15 **9.50.070 Franchise Responsibilities and Requirements**

16 A. Access for Inspections and Delivery of Notices. Franchisees shall make all company
17 premises, facilities and records related to their solid waste, recyclable materials and yard debris
18 collection services (including, but not limited to: offices, storage areas, financial records,
19 nonfinancial records, records pertaining to the origin of any solid waste collected by the
20 franchisee, receipts for sale or delivery of collected recyclable materials, customer lists, and all
21 records related to vehicle maintenance and safety which are required under ODOT motor carrier
22 requirements and regulations and ORS Chapter 767) available for inspection by the City
23 ~~Manager Administrator~~ or the City Manager's designee within twenty-four (24) hours of
24 notice by registered mail. Such inspections are only for purposes of enforcing this chapter and
25 are restricted to normal business hours. During normal business hours, the franchisee shall make
26 all company premises and facilities accessible to City employees for delivery of any written
27 notices. Collection vehicles must be accessible for inspection during the normal operating hours
28 for collection, in addition to normal business hours. Where receptacles are stored in the public
29 right-of-way or when the City is inspecting a situation where the franchisee is allegedly
30 commingling recyclable materials or yard debris with solid waste, the need for twenty-four (24)

1 hour notice does not apply to inspection of receptacles or vehicles.

2 B. Indemnification, Bond, and Insurance.

3 **1.** A franchisee shall pay, save harmless and indemnify the City from any loss, damage,
4 penalty or claim against the City on account of or in connection with any activity of the
5 franchisee in the operation of the franchisee's solid waste collection business, including
6 activity by any approved subcontractor providing solid waste management collections and
7 services. If such suit shall be filed against the City either independently or jointly with the
8 franchisee or its subcontractor to recover for any claim or damages, the franchisee upon
9 notice to it by the City shall defend the City against the action, and in the event of a final
10 judgment being obtained against the City, either independently or jointly with the franchisee
11 or its subcontractor, the franchisee will pay said judgment and all costs and hold the City
12 harmless therefrom.

13 **2.** Franchisee shall furnish a performance bond, in a form approved by the City Attorney, by
14 an acceptable surety company in the amount of twenty-five thousand dollars (\$25,000.00),
15 but may, in lieu of a bond, furnish an irrevocable letter of credit or assign a savings account
16 or deposit in any federally insured financial institution in the amount of twenty-five thousand
17 dollars (\$25,000.00) on a form approved by the City Attorney. The security shall guarantee
18 faithful performance of all the obligations contained herein with the premium for such bond
19 or cost of such assignment to be paid by the franchisee furnishing the bond, letter of credit or
20 making the assignment.

21 **3.** A franchisee shall maintain commercial general liability insurance on an occurrence basis
22 in such forms and with such companies as shall be approved by the City Attorney, which will
23 cover the franchisee's business operation, including each vehicle operated by it. The
24 insurance coverage shall include not less than ~~two~~ **two** million dollars (~~\$21,000,000.00~~) for
25 one (1) person, nor less than five million dollars (\$5,000,000.00) for bodily injury due to
26 each occurrence, and not less than ~~two~~ **two** million dollars (~~\$21,000,000.00~~) for damage to
27 property due to each occurrence and coverage of at least five million dollars (\$5,000,000.00)
28 in the aggregate per occurrence. All such insurance coverage shall provide a thirty (30) day
29 notice to the City ~~Manager Administrator~~ or **the City Manager's** designee in the event of
30 material alteration or cancellation of any coverage afforded in the policies prior to the date

1 the material alteration or cancellation shall become effective. Copies of all policies required
2 hereunder shall be furnished to and filed with the City ~~Manager Administrator~~ or the City
3 Manager's designee prior to the commencement of operations or the expiration of prior
4 policies, as the case may be. The franchisee shall furnish proof annually to the City ~~Manager~~
5 ~~Administrator~~ or the City Manager's designee that the insurance remains in effect.

6 **4.** The provisions of this section, any bonds accepted by the City pursuant thereto, and any
7 damage recovered by the City hereunder shall not be construed to excuse unfaithful
8 performance by the franchisee or limit the liability of the franchisee under this chapter or the
9 franchisee for damages, either to the full amount of the bond, or otherwise.

10 **SECTION 89.** Ashland Municipal Code 9.50.080 is hereby amended as follows:

11 **9.50.080 Enforcement, Suspension, or Termination of Franchise**

12 A. Responsibility of City. Franchisees are subject to the exercise of the police power of the
13 City and to such regulations as the City may provide by resolution, ordinance, rule or regulation.

14 B. Enforcement of Standards. The City ~~Manager Administrator~~ or the City Manager's
15 designee shall administer and enforce this chapter and pursue remedies for noncompliance as
16 laid out within this chapter. The City ~~Manager Administrator~~ or the City Manager's designee
17 shall also administer and enforce **any** administrative operations standards and rules as adopted
18 by the City Council. These standards and rules shall be enforceable with penalties allowed in
19 AMC Chapter 1.08. Upon recommendation by the City ~~Manager Administrator~~ or the City
20 Manager's designee, the City Council may declare a franchisee who fails to abide by the rules
21 to be in default.

22 C. Initiation of Enforcement Actions. In addition to enforcement under state law, the City may
23 prosecute any infraction as defined in this chapter or the rules issued hereunder, based on any
24 information coming to the City, in Ashland Municipal Court. The burden of proof is on the City
25 to prove an infraction by a preponderance of the evidence.

26 D. Penalties for Infractions. Each franchise provision, including rules adopted hereunder, is
27 subject to penalties as described in AMC Chapter 1.08 for each day from the initial citation of
28 the offense that the offense continues to violate the terms of this chapter or associated
29 resolutions.

30 E. Termination of Franchise for Default. In addition to default for accrued penalties, upon

1 recommendation by the City ~~Manager Administrator~~ or the City Manager's designee, the
2 City Council may terminate a franchise for the franchise holder's default in performing any
3 material term or condition of the franchise. An event of default also shall include, but not be
4 limited to, entry of a judgment against the franchise holder for material misrepresentation or
5 deceit committed against the City or a customer, or entry of a judgment of conviction (including
6 conviction on a plea of no contest) against the franchise holder or any principal of same for a
7 crime involving dishonesty. Notice to a franchisee of default shall be delivered to the franchisee
8 by certified mail requiring the franchisee to show cause in a public hearing before the City
9 Council at a place and time to be stated in the notice, but no earlier than fourteen (14) days from
10 the date the notice is mailed, why the franchise should not be terminated. At the hearing the
11 franchisee shall demonstrate the measures it has taken or commenced to cure the default.

12 F. Service Interruption.

13 1. Except for the right to refuse service for nonpayment or if customer has attempted to
14 improperly dispose of hazardous waste in violation of the City's standards and rules as set
15 forth in this chapter, franchisees shall not interrupt service unless:

16 a. Access, roads, streets and highways necessary for collection operations are unusable
17 or unsafe and there are no alternative routes. Franchisees shall resume service within
18 twenty-four (24) hours after access is restored.

19 b. A force majeure event occurs.

20 2. Upon the occurrence of a force majeure event that prevents or impairs a franchisee's
21 ability to perform any of its franchise obligations, the franchisee shall:

22 a. Provide immediate notice, either verbal or written, to the City Manager
23 ~~Administrator~~ or the City Manager's designee of the nature of the event and extent and
24 anticipated duration of franchisee's inability to perform any obligation under this
25 franchise. If verbal notice is given, then written notice must be delivered to the City
26 within twenty-four (24) hours of such verbal notice;

27 b. Commence immediately to develop, in communication and cooperation with the City,
28 an interim plan for the restoration of full performance; and

29 c. Take all such other reasonable actions requested by the City to assist the City in
30 protecting the public health and safety and to restore service as soon as practicable.

1 3. Labor unrest, including, but not limited to, strike, work stoppage or slowdown, sick-out,
2 picketing, or other concerted job action conducted by franchisee employees or directed at the
3 franchisee, is not an event of force majeure, and the franchisee shall be obligated to continue
4 to provide service notwithstanding the occurrence of any or all of events.

5 G. City's Right to Perform Service. Except as provided under Subsection F of this section, in
6 the event that a franchisee, for any reason whatsoever, fails, refuses or is unable to collect or
7 transport any or all solid waste for a period of more than forty-eight (48) hours, and, if, as a
8 result thereof, solid waste or recyclable materials should accumulate in the City to such an extent
9 that the City finds that such accumulation endangers the public health, safety, or welfare, then
10 the City shall have the right, but not the obligation, upon twenty-four (24) hour prior written
11 notice to the franchisee, to perform or cause to be performed collection services with its own or
12 other personnel at the franchisee's expense. This right shall be in addition to and not in lieu of
13 any other remedy available to the City. If necessary, the City may take temporary possession of,
14 and a franchisee shall peacefully surrender, any or all of the franchisee's land, equipment, and
15 other property used or useful in the collection of solid waste or recyclable materials until such
16 time as the emergency is resolved. If such possession occurs, the City assumes all responsibility
17 and liability for the equipment and land used to perform such temporary collection services.

18 H. Dispute Resolution with Customers. Upon receipt of any notice of dispute from a customer
19 about any bill, charge, or service, the franchisee shall thoroughly investigate the matter and
20 promptly report the results of its investigation to the customer. Except in the event a customer
21 has attempted to improperly dispose of hazardous waste in violation of the City's standards and
22 rules, a franchisee shall not refuse service to any customer during a time of dispute. If the
23 franchisee is not able to resolve a dispute with the customer, the customer may contact the City
24 **Manager Administrator** or **the City Manager's** designee who will act as an informal arbitrator
25 in an attempt to resolve the matter. Should the dispute remain unresolved, the franchisee or
26 customer may then pursue the matter in any court with jurisdiction.

27 I. Dispute Resolution with City. During all disputes arising under the franchise, the City and
28 franchisee shall continue performance of their respective obligations under the franchise unless
29 and until the franchisee is terminated for default, in which case the franchisee's obligation to pay
30 a franchise fee based on cash receipts generated from services provided under the franchise

1 during said dispute shall survive such termination. In addition to and without waiving any rights
2 and remedies under civil or common law, in the event of a dispute under the franchise, the
3 parties shall mutually agree to arbitration. Within fifteen (15) days after agreement to arbitration
4 has been reached, each party shall submit the name of its own arbitrator, selected from the
5 American Arbitration Association, and the two (2) arbitrators shall select a third arbitrator
6 selected from such panel within fifteen (15) days, or in case of a disagreement concerning the
7 appointment of the third arbitrator, the third arbitrator shall be appointed from such panel by the
8 presiding judge for the Circuit Court of the State of Oregon for Jackson County. During such
9 time that the arbitrators are being selected or appointed, the parties shall continue to negotiate in
10 good faith to resolve their dispute in a cooperative manner. The decision of the arbitrators in the
11 matter shall be final and binding on the parties, and any judgment upon the award rendered
12 pursuant to such arbitration may be entered in any court having jurisdiction thereof.

13 **SECTION 90.** Ashland Municipal Code 10.48.040 is hereby amended as follows:

14 **10.48.040 Overnight Sleeping in Vehicles**

15 A. Notwithstanding any other provision of the Ashland Municipal Code, persons may sleep
16 overnight in a vehicle in a parking lot of a religious institution or place of worship that owns or
17 leases real property on which a structure and an associated parking lot are located; provided, that
18 said persons have obtained the permission of the person in charge. The person in charge may not
19 grant permission for more than three (3) vehicles used for sleeping to utilize the parking lot at
20 any one (1) time.

21 B. A person in charge who allows a person or persons to sleep overnight in a vehicle on the
22 premises pursuant to Subsection A of this section shall:

- 23 1. Provide or make available on the premises sanitary facilities including, but not limited
24 to, toilet, hand washing, and trash disposal facilities;
- 25 2. Not allow the overnight users' personal items to be visible from any public street; and
- 26 3. Not require payment of any fee, rent, or other monetary charge for overnight sleeping in
27 a vehicle as authorized by this section.

28 C. A person in charge who permits overnight sleeping in a vehicle pursuant to Subsection A of
29 this section may revoke that permission at any time and for any reason. Any person who receives
30 permission to sleep on a premises as provided in Subsection A of this section shall leave the

1 premises immediately after permission has been revoked.

2 D. Notwithstanding any other provision of this section, the City ~~Manager~~ **Administrator**
3 or the City ~~Manager's~~ **Administrator's** designee may prohibit overnight sleeping in a vehicle at
4 a premises as provided in Subsection A of this section if the City ~~Manager~~ **Administrator** or
5 the City ~~Manager's~~ **Administrator's** designee finds that such activity on the premises
6 constitutes a nuisance or other threat to public health, safety, or welfare.

7 E. In addition to any other penalties that may be imposed, any premises used for overnight
8 sleeping in a manner not authorized by this section or other provisions of this code shall
9 constitute a nuisance and may be abated as such.

10 F. Nothing in this chapter creates any duty on the part of the City, its employees, or its agents to
11 ensure the protection of persons or property with regard to overnight sleeping in vehicles.

12 **SECTION 91.** Ashland Municipal Code 13.02.040 is hereby amended as follows:

13 **13.02.040 Right-of-Way Encroachment**

14 A. Prohibition. Except as provided in AMC 13.02.040.C, no person or entity may occupy or
15 encroach on a public right-of-way without the permission of the City. The City grants
16 permission to use public rights-of-way, by franchises, licenses, concessions and permits.

17 B. Standard forms. Franchises, licenses, concessions and permits for use of public rights-of-
18 way, shall comply with all applicable requirements for occupancy or encroachment of such areas
19 as set forth in **AMC** Chapter 13.03 and other applicable provisions of the Ashland Municipal
20 Code. Franchises, licenses concessions and permits shall be submitted on a City standard form
21 franchise, license, concession, or permit template, together with required fees, if any. Such
22 standard ~~form templates and~~ fees may be adopted and amended by **resolution of** the City
23 Council ~~by Resolution.~~

24 C. City Functional Items. The City of Ashland is not required to obtain permits or other City
25 authorizations to place City utilities, facilities or other structures, in the right-of-way, including
26 “functional items” intended for public usage. City functional items include, but are not limited
27 to, a City standard bench, water fountain, planter box, garbage receptacle, ash can, bike rack,
28 bollard, publication box, or other functional items identified by resolution of the City Council.
29 The City Council Resolution shall identify functional items and establish minimum standards for
30 such items.

1 D. Donated or Loaned Functional Items. An abutting property owner together with the
2 occupant may donate or loan to the City of Ashland a City standard functional item for use in an
3 adjacent sidewalk permit area. Other persons or entities may also donate or loan functional
4 items, for use in nonadjacent public areas. Items accepted on loan require insurance and a
5 maintenance/hold harmless/indemnity agreement in ~~the standard approved a~~ form approved
6 by the City. Donated items do not require insurance or a maintenance agreement, but the
7 donations must be accepted by the City to be eligible for placement. The City Manager
8 ~~Administrator~~ is delegated authority to accept or reject donations and loans for purposes of this
9 chapter, in the Manager's Administrator's sole discretion. After demonstrated compliance with
10 this section, the City Public Works Director may authorize in writing the placement of a donated
11 or loaned city standard functional item, in locations meeting, at a minimum, the ~~six foot or eight~~
12 ~~foot~~ clearance requirement of AMC Chapter 10.64 10.64.010 or in approved locations shown on
13 an adopted Downtown Sidewalk Usage Map. Items not strictly complying with minimum
14 standards for such City functional items, (e.g. - a decorative art bench) may be permitted through
15 the public art process in AMC Chapter 2.17.

16 **SECTION 92.** Ashland Municipal Code 13.03.030 is hereby amended as follows:

17 **13.03.030 Exempt Activities: City Seasonal Event usage**

18 Notwithstanding any provision to the contrary in this chapter Ordinance, the City Council may,
19 at its discretion and upon such conditions as it deems appropriate, grant permission to adjacent
20 owners and occupants, by special permit for free use of the sidewalk permit areas in the
21 commercial zones of the City for designated seasonal events. Such seasonal events shall be
22 designed and structured to fulfill a special public need to promote tourism and economic
23 development. Such Seasonal Event permits shall be initially limited to three (3) days the week
24 before the Memorial Day weekend and three (3) days the week after Labor Day weekend and
25 shall require a sponsor to provide insurance. The City Manager Administrator is delegated
26 authority to grant permits for the above-referenced three-day events. ~~The Council may by~~
27 ~~resolution establish additional~~ Additional seasonal event days ~~and~~ may ~~also be established~~
28 by resolution of the City Council establish standard forms with terms and conditions for
29 participation in such events.

30 **SECTION 93.** Ashland Municipal Code 13.03.040 is hereby amended as follows:

1 **13.03.040 Application, Permit Fees and Rates**

2 The form of the application for occupancy or encroachment on sidewalks shall be established by
3 resolution of the Council. The application fees and square footage rates or gross sales rates, if
4 any, shall also be established by resolution of the City Council. The resolution approving such
5 fees and rates shall provide for the annual adjustment of fees and rates by the CPI for the
6 previous calendar year, without the need to formally amend the resolution. Notwithstanding the
7 above, the City ~~Manager Administrator~~ may establish separate applications for exempted or
8 limited activities or interim regulations or waive the application requirement for specified
9 occupancies by written order.

10 **SECTION 94.** Ashland Municipal Code 13.03.090 is hereby amended as follows:

11 **13.03.090 Denial, Revocation, or Suspension of Permit**

12 A. The Public Works Director may deny, revoke, or suspend the permit upon finding that any
13 provision of this chapter or condition of approval has been violated. The permit or agreement
14 shall be suspended if the rental rate is not fully paid within three working days of the due date or
15 if the Permittee fails to maintain required insurance. The permit or agreement shall be suspended
16 if the Permittee fails to strictly abide by the boundaries of the sidewalk permit area.

17 B. The Public Works Director shall give notice of denial, revocation, or suspension to the
18 applicant or Permittee in writing stating the action which has been taken and the reason
19 therefore. The action shall be effective immediately for a denial and upon the expiration of the
20 appeal period [10 days] for a suspension or revocation. Appeals shall be processed as provided in
21 AMC **Chapter** 2.30. If an appeal of a suspension or revocation is properly filed, the suspension
22 or revocation shall be stayed until resolution of the appeal. Upon hearing the matter, the
23 ~~Hearings Officer City Administrator~~ shall render a final written decision. This remedy is not
24 exclusive; the City may also cite violations **of this chapter into the Municipal** ~~to~~ Court,
25 (including daily fines) in addition to the remedy set forth above.

26 **SECTION 95.** Ashland Municipal Code 13.04.030 is hereby amended as follows:

27 **13.04.030 Standards and Specifications**

28 A. Sidewalks shall be constructed of Portland cement concrete; shall be not less than five (5)
29 feet in width, and shall be located one (1) foot from the property line extending toward the curb,
30 unless otherwise approved by **resolution of** the City Council.

1 B. The City ~~Manager Administrator~~ or the City Manager's designee shall establish
2 supplemental standards and specifications for sidewalk construction, repair, or alteration to
3 provide durable and practical sidewalks at a suitable grade determined by the City Manager
4 ~~Administrator~~ to be in accordance with the system of the City street grades.

5 C. The City ~~Manager Administrator~~ or the City Manager's designee shall report to the City
6 Council changes in sidewalk standards and specifications and shall keep a copy on file in the
7 City offices for the use of the public.

8 D. Sidewalks shall be constructed, repaired, or altered in accordance with the standards and
9 specifications established under this section.

10 **SECTION 96.** Ashland Municipal Code 13.04.040 is hereby amended as follows:

11 **13.04.040 Permits**

12 A. No person shall construct, repair, or alter a sidewalk without first obtaining a permit from
13 the City.

14 B. An application for a permit shall be filed with the City ~~Manager Administrator~~ or the City
15 Manager's designee on a form provided by the City, together with such other information as
16 may be required by the City. After determining that the proposed sidewalk construction, repair,
17 or alteration conforms to the applicable standards and specifications, the City Manager
18 ~~Administrator~~ or the City Manager's designee shall issue a permit to the applicant. If the City
19 is requiring the repair of the sidewalk, the permit shall state the date within which the work shall
20 be completed.

21 **SECTION 97.** Ashland Municipal Code 13.04.050 is hereby amended as follows:

22 **13.04.050 Supervision**

23 The City ~~Manager Administrator~~ or the City Manager's designee may inspect any materials
24 or construction details as it may, in the City Manager's Administrator's judgment, be required
25 to insure compliance with the permit and with the applicable standards and specifications.

26 **SECTION 98.** Ashland Municipal Code 13.04.070 is hereby amended as follows:

27 **13.04.070 City May Make Repairs**

28 If repair of the sidewalk is not completed within thirty (30) days after the service of notice to
29 repair, the City ~~Manager Administrator~~, or the City Manager's designee shall order the repair
30 or completion of the repair of the sidewalk done by the City. Said repair and assessment shall be

1 governed by ~~the Uniform Violation Abatement Ordinance~~, AMC Chapter 2.31.

2 **SECTION 99.** Ashland Municipal Code 13.16.020 is hereby amended as follows:

3 **13.16.020 Enforcing Authority**

4 The City ~~Manager Administrator~~, or the City Manager's designee ~~a duly authorized~~
5 ~~representative~~, shall be charged with the enforcement of this chapter.

6 **SECTION 100.** Ashland Municipal Code 13.16.030 is hereby amended as follows:

7 **13.16.030 Permission to Plant or Remove**

8 The City encourages the planting of appropriate trees. No trees shall be planted in or removed
9 from any public planting strip or other public property in the City until a permit has been issued
10 by the City ~~Manager Administrator~~ or the City Manager's designee ~~a duly authorized~~
11 ~~representative~~. Applicants for a removal permit may be required to replace the tree or trees
12 being removed with a tree or trees of comparable value. If the tree is determined to be dead or
13 dying, then the replacement need be no larger than the minimum described in this chapter. The
14 replacement tree(s) shall be of a size specified in the permit and shall be no smaller than eight
15 (8) feet in height or one (1) inch in caliper twelve (12) inches above root crown and shall be an
16 appropriate species selected from and planted according to the Recommended Street Tree List.

17 **SECTION 101.** Ashland Municipal Code 13.16.035 is hereby amended as follows:

18 **13.16.035 Permission to Prune**

19 Except for purposes of removal of dying branches or those which are a hazard to the public,
20 pruning by City crews, or pruning for purposes of maintaining tree health, no tree shall be pruned
21 within any public planting strip or public right-of-way until a permit has been issued by the City
22 Manager or the City Manager's designee ~~Administrator or a duly authorized~~
23 ~~representative~~.

24 **SECTION 102.** Ashland Municipal Code 13.16.060 is hereby amended as follows:

25 **13.16.060 Trees – Trimming and Removal**

26 The City ~~Manager Administrator~~ may cause to be trimmed, pruned or removed any trees,
27 shrubs, plants, or vegetation in any public planting strip or other public property, or may require
28 any property owner to trim, prune, or remove any trees, shrubs, plants or vegetation in a public
29 planting strip abutting upon the owner's property. Failure to comply with this requirement
30 within thirty (30) days of receiving written notice from ~~by~~ the City ~~Recorder~~ is a violation of

1 this chapter.

2 **SECTION 103.** Ashland Municipal Code 13.16.080 is hereby amended as follows:

3 **13.16.080 Appeals**

4 Appeals from any assessment made under AMC 13.16.070 may be made by filing written notice
5 with the City Recorder within ten **(10)** days after the order is received, stating in substance that
6 an appeal from the order is being made to the City Council. The City Recorder shall file the
7 appeal with the City Council at the next regular meeting, at which meeting the appellant and the
8 City **Manager Administrator** may present evidence. Action taken by the City Council after the
9 hearing shall be conclusive.

10 **SECTION 104.** Ashland Municipal Code 13.20.160 is hereby amended as follows:

11 **13.20.160 Manner of Doing Work**

12 Local improvements may be made in whole or in part by the City, by another governmental
13 agency, by contract, or by any combination of these. The City **Manager Administrator**, on
14 behalf of the City, shall determine the engineer for all work to be accepted by the City for public
15 maintenance.

16 **SECTION 105.** Ashland Municipal Code 13.20.180 is hereby amended as follows:

17 **13.20.180 Construction of Improvement: Bids**

18 A. Immediately after the effective date of the resolution establishing the local improvement
19 district, the engineer for the City shall cause necessary right-of-way and easements to be
20 acquired and the improvement to be made in accordance with the terms of the resolution if the
21 work is to be performed by the City or another governmental agency. If any part of the work of
22 the improvement is to be done under contract bids, the engineer for the City shall cause detailed
23 plans and specifications to be prepared and filed and notice calling for bids to be published in a
24 newspaper of general circulation within the City not less than ten **(10)** days prior to the opening
25 of the bids.

26 ~~**B. The City Administrator shall have the authority to sign all contracts on behalf of the**~~
27 ~~**City.**~~

28 ~~**B C.**~~ If the bid is more than ten percent **(10%)** above the engineer's estimate, the City
29 ~~**Manager Administrator**~~ shall refer the matter to the City Council which may, in its discretion,
30 provide for holding a special hearing to consider objections to proceeding with the improvement

1 on the basis of such bid.

2 **SECTION 106.** Ashland Municipal Code 13.30.010 is hereby amended as follows:

3 **13.30.010 Definitions**

4 The following terms are definitions for the purposes of this Chapter 13.30.

5 **A. Applicant means a person who is required or chooses to finance some or all of the costs**
6 **of a street, water, sanitary sewer, or storm water improvement, which improvement is also**
7 **available to serve or benefit property other than that of the applicant, and who in turn**
8 **applies to the City for reimbursement of the expense of the improvement.**

9 **B A.** City Engineer or Engineer means the ~~person holding the position of~~ Director of Public
10 Works or such other officer, employee or agent designated **in writing** by the ~~Council or~~ City
11 **Manager Administrator** to perform the duties set out for the City Engineer in this chapter.

12 ~~**B. City means the City of Ashland.**~~

13 C. Person means a natural person, firm, partnership, corporation, association or any other legal
14 entity, be it public or private and/or any agent, employee or representative thereof.

15 ~~**D. Applicant means a person who is required or chooses to finance some or all of the cost**~~
16 ~~**of a street, water or sanitary sewer or storm water improvement, which improvement is**~~
17 ~~**also available to serve or benefit property other than that of the applicant, and who in turn**~~
18 ~~**applies to the City for reimbursement of the expense of the improvement.**~~

19 **D E.** Street Improvement, Water Improvement, Sewer Improvement and Storm Water
20 Improvement mean respectively:

- 21 1. A street or street improvement, including but not limited to streets, storm drains, curbs,
22 gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public
23 rights-of-way;
- 24 2. A water facility or water line improvement, including but not limited to, extending a water
25 line to property (other than property owned by the applicant) so that water service can be
26 provided for such other property without further extension of the line;
- 27 3. A sanitary sewer, sewer line, or other facility improvement, including but not limited to
28 extending a sewer line to property (other than property owned by the applicant) so that sewer
29 service can be provided for such other property without further extension of the line; and
- 30 4. A storm water improvement, including but not limited to extending a storm water line to
property (other than property owned by the applicant) so that storm water disposal for such

1 other property can be provided without further extension of the line; conforming with
2 standards and specifications set by the City.

3 **E F.** Public Improvement means (as appropriate) all capital facilities (including plant facilities)
4 associated with water, sanitary sewer, storm water, street (including bicycle lanes), and/or
5 sidewalk facilities or the undergrounding of public utilities.

6 **F G.** Reimbursement Agreement means the agreement between an Applicant and the City (as
7 authorized by the City Council and executed by the City Administrator) providing for the
8 installation of and payment for public improvements within a Reimbursement District.

9 **G H.** Reimbursement District means the area determined by the City Council to derive a benefit
10 from the construction of public improvements financed in whole or in part by an Applicant.

11 **H I.** Reimbursement Fee means the fee established by resolution of the City Council and
12 required to be paid by persons within a Reimbursement District once they utilize the Public
13 Improvement.

14 **I J.** Utilize means to use or benefit from a Public Improvement, to apply for a building or other
15 permit which will allow for the use or increase in the use of a Public Improvement or to connect
16 to a Public Improvement

17 **SECTION 107.** Ashland Municipal Code 14.02.015 is hereby amended as follows:

18 **14.02.015 Senior Citizen Discount**

19 A. To qualify for the senior citizen discount, a person must be 65 years of age or disabled and
20 60 years of age and the total household income shall not exceed the Federal Community Services
21 Administration poverty guidelines.

22 B. The senior citizen discount shall only apply to the applicant's residence.

23 C. A senior citizen desiring to receive a utility discount must submit an initial application to the
24 City on forms provided by the City. In order to maintain continuous qualification for such
25 discount, the senior citizen shall, not later than June 30th of each ensuing year, file an annual
26 application for renewal on forms provided by the City. The City **Manager or the City**
27 **Manager's Administrator, or authorized** designee, shall determine whether the applicant
28 meets the qualifications and requirements of the City.

29 D. In special hardship cases, a committee of two **(2)** City Council members and the Senior
30 Program Director, may recommend **that** the City **Manager Administrator** grant exemptions to

1 the foregoing income limitations where the circumstances justify such exemptions.

2 **SECTION 108.** Ashland Municipal Code 14.05.010 is hereby amended as follows:

3 **14.05.010 Definitions**

4 A. Administrator. the City ~~Manager~~ **Administrator** for the City of Ashland.

5 B. Applicant. an individual firm, corporation, or authorized agent applying for water service.

6 C. AMC. the Ashland Municipal Code.

7 D. Approved Air Gap (AG). a physical separation between the free-flowing discharge end of a
8 potable water supply pipeline and an open or non-pressurized receiving vessel. An “Approved
9 Air Gap” shall be at least twice the diameter of the supply pipe measured vertically above the
10 overflow rim of the vessel and in no case less than 1 inch (2.54 cm), and in accord with Oregon
11 Plumbing Specialty Code.

12 E. Approved Backflow Prevention Assembly. a Reduced Pressure Principle Backflow
13 Prevention Assembly, Reduced Pressure Principle-Detector Backflow Prevention Assembly,
14 Double Check Valve Backflow Prevention Assembly, Double Check-Detector Backflow
15 Prevention Assembly, Pressure Vacuum Breaker Back-siphonage Prevention Assembly, or Spill-
16 Resistant Pressure Vacuum Breaker Back-siphonage Prevention Assembly, of a make, model,
17 orientation, and size approved by the Department. Assemblies listed in the currently approved
18 backflow prevention assemblies list developed by the University of Southern California,
19 Foundation for Cross-Connection Control and Hydraulic Research, or other testing laboratories
20 using equivalent testing methods, are considered approved by the Oregon Department of Human
21 Services.

22 F. Backflow. the flow of water or other liquids, mixtures, or substances into the distributing
23 pipes of a potable supply of water from any sources other than its intended source, and is caused
24 by back-siphonage or backpressure.

25 G. Backflow Prevention Assembly. a backflow prevention assembly such as a Pressure
26 Vacuum Breaker Back-siphonage Prevention Assembly, Spill-Resistant Pressure Vacuum
27 Breaker Back-siphonage Prevention Assembly, Double Check Valve Backflow Prevention
28 Assembly, Double Check-Detector Backflow Prevention Assembly, Reduced Pressure Principle
29 Backflow Prevention Assembly, or Reduced Pressure Principle-Detector Backflow Prevention
30 Assembly and the attached shutoff valves on the inlet and outlet ends of the assembly, assembled

- 1 as a complete unit.
- 2 H. Backpressure. an elevation of pressure downstream of the distribution system that would
3 cause, or tend to cause, water to flow opposite of its intended direction.
- 4 I. Back-siphonage. a drop in distribution system pressure below atmospheric pressure (partial
5 vacuum), that would cause, or tend to cause, water to flow opposite of its intended direction.
- 6 J. Bore-Sighted Drain to Daylight. an unrestricted straight-line opening in an enclosure that
7 vents to grade, and is sized and constructed to adequately drain the full flow discharge from a
8 reduced pressure principle backflow prevention assembly thus preventing any potential for
9 submersion of the assembly.
- 10 K. Check Valve. a valve, which allows flow in only one direction.
- 11 L. City. the City of Ashland, a municipal corporation in the State of Oregon.
- 12 M. Contaminant. any physical, chemical, biological, or radiological substance or matter in
13 water that creates a health hazard.
- 14 N. Council. **The** City Council for the City of Ashland, Oregon.
- 15 O. Cross Connection. any actual or potential unprotected connection or structural arrangement
16 between the public or user's potable water system and any other source or system through which
17 it is possible to introduce into any part of the potable system any used water, industrial fluid, gas,
18 or substances other than the intended potable water with which the system is supplied. Bypass
19 arrangements, jumper connections, removable sections, swivel, or change-over devices, and
20 other temporary or permanent devices through which, or because of which, backflow can occur
21 are considered to be cross connections.
- 22 P. Customer. any individual firm or corporation receiving water service from the City.
- 23 Q. Customer Facilities and/or equipment. facilities and/or equipment located on customer
24 premises used for receiving, controlling, applying, and/or utilizing City water.
- 25 R. Customer Control Valve. a valve installed at or near the outlet of water meter for use by
26 customer to control water to premises.
- 27 S. Director. the Public Works Director or **City** Engineer for the City of Ashland.
- 28 T. Distribution System. the network of pipes and other facilities, which are used to distribute
29 water from the source, treatment, transmission, or storage facilities to the water user.
- 30 U. Double Check-Detector Backflow Prevention Assembly (DCDA). a specially designed

1 assembly composed of a line size approved double check valve assembly assembled with a
2 bypass containing a specific water meter and an approved double check valve backflow
3 prevention assembly. The meter shall register accurately for only very low rates of flow up to
4 three gallons per minute and shall show a registration for all rates of flow. This assembly is
5 designed to protect against a nonhealth hazard.

6 V. Double Check Valve Backflow Prevention Assembly (DC). an assembly of two
7 independently acting approved check valves, including tightly closing resilient seated shutoff
8 valves attached at each end of the assembly and fitted with properly located resilient seated test
9 cocks. This assembly is designed to protect against a nonhealth hazard.

10 W. Federal. the United States of America, Environmental Protection Agency.

11 X. Health Hazard (Contamination). an impairment of the quality of the water that could create
12 an actual hazard to the public health through poisoning or through the spread of disease by
13 sewage, industrial fluids, waste, or other substances.

14 Y. Human Consumption. water used for drinking, personal hygiene bathing, showering,
15 cooking, dishwashing and maintaining oral hygiene.

16 Z. Hydrant. a device providing City water for fire protection; examples include fire hydrants
17 and standpipes.

18 AA. Local Administrative Authority. the individual official, board, department or agency
19 established and authorized by a state, county or city to administer and enforce the provisions of
20 the Oregon State Plumbing Specialty Code as adopted.

21 BB. NonHealth Hazard (Pollution). an impairment of the quality of the water to a degree that
22 does not create a hazard to the public health, but does adversely affect the aesthetic qualities of
23 such water for potable use.

24 CC. OAR ~~Oar~~. Oregon Administrative Rules.

25 DD. ODHS. the Oregon Department of Human Services.

26 EE. Oregon Plumbing Specialty Code (OPSC). the latest edition of the Uniform Plumbing Code
27 as adopted and/or amended by the State.

28 FF. Point of Delivery (POD). the point of connection between a public water system and the
29 user's water system. Beyond the point of delivery, the Oregon Plumbing Specialty Code applies.
30 See "Service Connection."

1 GG. Pollutant. a substance that creates an impairment of the quality of the water to a degree
2 which does not create a hazard to the public health, but which does adversely affect the aesthetic
3 qualities of the water.

4 HH. Potable Water. See Safe Drinking Water.

5 II. Potential Cross Connection. a cross connection that would most likely occur, but may not be
6 taking place at the time of an inspection.

7 JJ. Premises. means real estate and the structures on it.

8 KK. Pressure Vacuum Breaker Back-siphonage Prevention Assembly (PVB). an assembly
9 consisting of an independently operating, internally loaded check valve and an independently
10 operating loaded air inlet valve located on the discharge side of the check valve. This assembly is
11 to be equipped with properly located resilient seated test cocks and tightly closing resilient seated
12 shutoff valves attached at each end of the assembly. This assembly is designed to protect against
13 a nonhealth hazard or a health hazard under back-siphonage conditions only.

14 LL. Private Water Main. a water main installed by customer to serve customer's premises. A
15 private water main may provide, but is not limited to, private hydrants, private fire protection
16 systems, landscape irrigation, multiple buildings or customer's equipment.

17 MM. Private Water System. any water system for water supply other than the City water
18 system. Examples include: wells, springs, ponds, streams, and the Talent Irrigation District
19 water.

20 NN. Public Health Hazard. a condition, device or practice which is conducive to the
21 introduction of waterborne disease organisms, or harmful chemical, physical, or radioactive
22 substances into a public water system, and which presents an unreasonable risk to health.

23 OO. Public Water System. a system for the provision to the public of piped water for human
24 consumption, if such system has more than three service connections, or supplies water to a
25 public or commercial establishment that operates a total of at least 60 days per year, and that is
26 used by 10 or more individuals per day. Public water system also means a system for the
27 provision to the public of water through constructed conveyances other than pipes to at least 15
28 service connections or regularly serves at least 25 individuals daily at least 60 days of the year. A
29 public water system is either a "Community Water System," a "Transient Noncommunity Water
30 System," a "Nontransient Noncommunity Water System" or a "State Regulated Water System."

1 PP. Reduced Pressure Principle Backflow Prevention Assembly (RP). an assembly containing
2 two independently acting approved check valves, together with a hydraulically operating,
3 mechanically independent pressure differential relief valve located between the check valves and
4 at the same time below the first check valve. The unit shall include properly located resilient
5 seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly.
6 This assembly is designed to protect against a nonhealth hazard or a health hazard.

7 QQ. Reduced Pressure Principle-Detector Backflow Prevention Assembly (RPDA). a
8 specifically designed assembly composed of a line size approved reduced pressure principle
9 backflow prevention assembly with a bypass containing a specific water meter and an approved
10 reduced pressure principle backflow prevention assembly. The meter shall register accurately for
11 only very low rates of flow up to three gallons per minute and shall show a registration for all
12 rates of flow. This assembly is designed to protect against a nonhealth hazard or a health hazard.

13 RR. Regular Working Hours. Winter from 8:00am to 4:30pm and summer from 7:00am to
14 3:30pm, Monday through Friday, except holidays.

15 SS. Safe Drinking Water. water which has sufficiently low concentrations of microbiological,
16 inorganic chemical, organic chemical, radiological or physical substances so that individuals
17 drinking such water at normal levels of consumption will not be exposed to disease organisms or
18 other substances which may produce harmful physiological effects.

19 TT. Service Connection. the piping connection by means of which water is conveyed from a
20 distribution main of a public water system to a user's premise. For a community water system,
21 the portion of the service connection that conveys water from the distribution main to the user's
22 property line, or to the service meter, where provided, is under the jurisdiction of the water
23 supplier.

24 UU. Spill Resistant Pressure Vacuum Breaker Back-siphonage Prevention Assembly (SVB). an
25 assembly containing an independently operating, internally loaded check valve and
26 independently operating loaded air inlet valve located on the discharge side of the check valve.
27 The assembly is to be equipped with a properly located resilient seated test cock, a properly
28 located bleed/vent valve, and tightly closing resilient seated shutoff valves attached at each end
29 of the assembly. This assembly is designed to protect against a nonhealth hazard or a health
30 hazard under a back-siphonage condition only.

1 VV. Spring. a naturally occurring discharge of flowing water at the ground surface, or into
2 surface water. Springs can be derived from groundwater or they can be surface water influenced.

3 WW. State. the State of Oregon Department of Health and/or Department of Environmental
4 Quality.

5 XX. Surface Water. all water, which is open to the atmosphere and subject to surface runoff.

6 YY. Temporary Service Connection. a service connection installed for circuses, bazaars, fairs,
7 construction work, or similar short term temporary usage, the location of such is to be
8 determined by City.

9 ZZ. Vault. an approved enclosure above or below ground to house a backflow prevention
10 assembly that complies with the local administrative authority having jurisdiction.

11 AAA. Water Meter. a device for measuring water flow to water supply line housed in an
12 approved meter box and located between the water service line and water supply line.

13 BBB. Water Meter - Exempt. a water meter as defined above for a use that does not return
14 water to the City of Ashland sanitary sewer system. Such meters will be exempt from sanitary
15 sewer charges. Examples of exempt meters are meters used for landscaping or a self-contained
16 process such as juice or soft drink manufacture.

17 CCC. Water Supply Line. a customer owned water line located between water meter and
18 plumbing on the premises.

19 DDD. Water System. the City owned and operated water system, which includes, but is not
20 limited to, water treatment facilities, dams, reservoirs, pumps, water mains, fire hydrants, and
21 appurtenances.

22 **SECTION 109.** Ashland Municipal Code 14.06.020 is hereby amended as follows:

23 **14.06.020 Determination of water shortage**

24 A. The City ~~Manager~~ ~~Administrator~~ is authorized to prohibit waste as defined in **AMC**
25 ~~section~~ 14.06.010 or implement water curtailment stages upon determination that a water
26 shortage emergency conditions exists. Such determination shall be based on an analysis of the
27 demand for water in the City, the volume of water in Reeder Reservoir, the standard drawdown
28 curve for Reeder Reservoir, the projected curtailment date for Talent Irrigation District water and
29 flows in the east and west forks of Ashland Creek. The determination of the City **Manager**
30 ~~Administrator~~ under this section shall be effective until the next **meeting of the City Council**

1 ~~council meeting~~ following such determination, at which time the City Council council shall
2 either ratify or invalidate the determination.

3 B. The City Manager Administrator is authorized to terminate waste prohibitions or water
4 curtailment stages upon determination that a water shortage emergency condition no longer
5 exists. Such determination shall be based upon factors listed in AMC section 14.06.020 and the
6 billing cycle. The termination shall be effective until the next ~~council~~ meeting of the City
7 Council following the determination of the City Manager, Administrator at which time the
8 City Council council shall either ratify or invalidate the determination.

9 **SECTION 110.** Ashland Municipal Code 14.06.030 is hereby amended as follows:

10 **14.06.030 Water curtailment stages**

11 Depending on the severity of the potential water shortage, the City Manager Administrator
12 may implement the following water curtailment stages. During any stage, no person shall waste
13 City water.

14 Stage 1. The following restrictions are effective during water curtailment Stage 1:

- 15 1. No customer shall receive through the water meter assigned to such customer more than
16 the maximum volume of water for such meter indicated for Stage 1 in the Water Allocation
17 Table.
- 18 2. Government agencies and HOA's, including but not limited to parks, schools, colleges
19 and municipalities may have separate account allotments combined into one "agency"
20 allotment and are exempt from Stage 1 restrictions if their water consumption is otherwise
21 reduced by 20% from the volume of water delivered in the same billing period for the first
22 previous nonwater curtailment year.

23 Stage 2. The following restrictions are effective during water curtailment Stage 2:

- 24 1. No customer shall receive through the water meter assigned to such customer more than
25 the maximum volume of water for such meter indicated for Stage 2 in the Water Allocation
26 Table.
- 27 2. Government agencies and HOA's, including but not limited to parks, schools, colleges
28 and municipalities may have separate account allotments combined into one "agency"
29 allotment and are exempt from Stage 2 restrictions if their water consumption is otherwise
30 reduced by 30% from the volume of water determined under Stage 1.

1 Stage 3. The following restrictions are effective during water curtailment Stage 3:

- 2 1. No customer shall receive through the water meter assigned to such customer more than
3 the maximum volume of water for such meter indicated for Stage 3 in the Water Allocation
4 Table.
- 5 2. Government agencies and HOA's, including but not limited to parks, schools, colleges
6 and municipalities may have separate account allotments combined into one "agency"
7 allotment and are exempt from 3 restrictions if their water consumption is otherwise reduced
8 by 40% from the volume of water determined under Stage 2.

9 Stage 4. The following restrictions are effective during water curtailment Stage 4:

- 10 1. No customer shall receive through the water meter assigned to such customer more than
11 the maximum volume of water for such meter indicated for Stage 4 in the Water Allocation
12 Table.
- 13 2. Government agencies and HOA's, including but not limited to parks, schools, colleges
14 and municipalities may have separate account allotments combined into one "agency"
15 allotment and are exempt from Stage 4 restrictions if their water consumption is otherwise
16 reduced by 50% from the volume of water determined under Stage 3.
- 17 3. No City water shall be used to irrigate outside plants, except for trees, shrubs and food
18 plants. If the customer has an irrigation meter, the irrigation meter shall not be used. The
19 watering of trees, shrubs and food plants shall be through the nonirrigation meter and the
20 total allocation shall not exceed the amount allowed for the nonirrigation meter.

21 **SECTION 111.** Ashland Municipal Code 14.06.060 is hereby amended as follows:

22 **14.06.060 Exemptions and Appeals**

- 23 A. Any person who wishes to be exempted from a restriction imposed by any water curtailment
24 stage shall request an exemption in writing on forms provided by the City and file the request for
25 exemption in writing with the Utility Billing Office.
- 26 B. Requests will be reviewed after a water audit is conducted by the City and a determination
27 made by the Conservation Analyst as to the validity of the request for an exemption. No
28 exemptions will be considered until the City has conducted a water audit.
- 29 C. Exemptions may be granted for the following:
 - 30 1. Any person with substantial medical requirements as prescribed in writing by a

1 physician. Examples would be hydrotherapy pools or life support systems.

2 2. Residential connections with more than four permanent residents in a single-family
3 residence or three permanent residents per unit in a multi-family dwelling can receive up to
4 350 cf per month per additional permanent resident. A census may be conducted to determine
5 the actual number of permanent residents per living unit. Temporary or drop-in guests will
6 not be considered for additional allocations.

7 3. For commercial or industrial accounts where water supply reductions will result in
8 unemployment or decrease production, after confirmation by the City that the account has
9 instituted all applicable water efficiency improvements.

10 4. For any other reason upon showing of good cause and where necessary for public health
11 or safety.

12 5. For commercial accounts where water meter is undersized (as determined under the
13 Uniform Plumbing Code) for the current occupancy, the allocation for such accounts may be
14 increased up to the allocation for the water meter size designated for such occupancy in the
15 Uniform Plumbing Code.

16 D. Exemptions will not be allowed for steam cleaning or similar uses of water. The amount
17 allocated for any given customer will include such uses and no additional allocation will be
18 allowed.

19 E. The Conservation Analyst shall report to the Director of Public Works the findings and
20 conclusions resulting from the review. The Director shall approve or deny the request for
21 exemptions and may impose conditions. Such conditions may include the amount volume
22 restrictions may be exceeded and that all applicable plumbing fixtures or irrigation systems be
23 replaced or modified for maximum water conservation. If the Director and the applicant are
24 unable to reach accord on the exemption, or if the applicant is dissatisfied with the decision, the
25 applicant may appeal to the City ~~Manager Administrator~~ in writing. The City Manager ~~who~~
26 will make the final determination.

27 F. Except for an exemption granted under AMC section 14.06.060.C.1, C.2 and C.5, the water
28 consumption surcharge specified in AMC section 14.06.080 shall apply to all exemptions.

29 **SECTION 112.** Ashland Municipal Code 14.06.080 is hereby amended as follows:

30 **14.06.080 Excess water consumption surcharge; flow restrictor installation**

1 For any full billing period that begins after the City ~~Manager's Administrator's~~ determination
2 is made and ratified as provided in AMC section 14.06.060:

3 A. Any customer who exceeds the maximum volumes established in the Water Allocation
4 Table for Stages 1, 2 or 3 shall pay a surcharge of four (4) times the rate for water delivered in
5 excess of the established maximum volume.

6 B. During Stage 4, any customer who exceeds the maximum volumes established in the Water
7 Allocation Table shall pay a surcharge of ten (10) times the rate for water delivered in excess of
8 the established maximum volume.

9 C. Notwithstanding the above, at any time the City may install a flow restricting device upon a
10 service exceeding the maximum volume for more than one billing period. For services up to one
11 and one-half inch size the City may install a flow restricting device of two gallon-per-minute
12 capacity, and for larger services, comparatively sized restricting devices for larger services, for a
13 period of seven days. Before normal service will be restored, a flow restrictor installation and
14 removal charge of \$100 shall be paid by the person who subscribes for the water service.

15 Appeals are as provided in AMC section 14.06.060 ~~herein~~.

16 **SECTION 113.** Ashland Municipal Code 15.04.030 is hereby amended as follows:

17 **15.04.030 Building Official Designated**

18 The City ~~Manager Administrator~~ shall designate a City employee to carry out the functions
19 and duties of the Building Official as described in the Oregon 2004 Structural Specialty Code,
20 unless such individual is a department head, in which case such designation shall be by the
21 Mayor with confirmation by the City Council. Such person shall be state certified as a Building
22 Official in all the codes adopted by this chapter, and may delegate portions of responsibility as
23 may be deemed necessary. Designation by the City ~~Manager Administrator~~ of the Building
24 Official shall be done in writing in a document filed with the City Recorder.

25 **SECTION 114.** Ashland Municipal Code 15.04.214 is hereby amended as follows:

26 **15.04.214 Approval Process**

27 Applications for demolition or relocation permits will be processed as follows:

28 A. A complete application must be submitted to the building official and must include all of the
29 required information for the specific action requested. The application must be signed by one or
30 more property owners of the property where the structure is located. The application must be

1 accompanied by the appropriate application fee.

2 B. Within **fourteen** (14) days after receipt of a complete application, the building official will
3 approve, approve with conditions, or deny the application unless such time limitation is extended
4 with the consent of the applicant. Notice of the decision of the building official will be mailed to
5 the applicant within seven days of the decision.

6 C. If the application is approved, or if the application is denied and the applicant desires a
7 hearing before the Demolition Review Committee, the applicant must post and publish a notice
8 of the decision. The notice must be posted on the property in such a manner as to be clearly
9 visible from a public right-of-way and be posted within **five** (5) business days of the date the
10 applicant received the decision. In addition, the notice must be published in a newspaper of
11 general circulation within the City at least **seven** (7) days prior to the date requests for hearing
12 must be filed.

13 D. The applicant or any person may request a hearing before the Demolition Review
14 Committee by filing a request for a hearing with the building official. The request for a hearing
15 must:

16 1. Be in writing and be filed within ten **(10)** days of the date of the decision, if the request is
17 by the applicant. Otherwise the request must be filed within ten days of the date the notice is
18 posted or **seven** (7) days after the notice is published, whichever date is later.

19 2. Contain the specific grounds for which the decision should be reversed or modified,
20 based on the applicable demolition or relocation standards.

21 E. The following information is required to be contained in the notices required by this section.

22 1. Notice of the decision by the building official described in Subsection B above is to
23 contain the following information:

24 a. The decision of the building official and the date of the decision.

25 b. The requirements of the applicant for posting and publishing notice of the decision.

26 c. A statement that no hearing will be held before the Demolition Review Committee
27 unless specifically requested.

28 d. A statement that a request for a hearing by the applicant must be made within 10 days
29 of the date the applicant received the decision and that a request for a hearing must
30 include:

- 1 (i) The name and address of the applicant,
- 2 (ii) the file number of the demolition or relocation application, and
- 3 (iii) the specific grounds for which the decision should be reversed or modified,
- 4 based on the applicable demolition or relocation standards.
- 5 2. The posted and published notices described in subsection C above must contain:
 - 6 a. A brief description of the approval and the application file number,
 - 7 b. The phone number and address of the building official,
 - 8 c. The date the notice was posted, and
 - 9 d. A statement that anyone who objects to the approval must file a request for a hearing
 - 10 on a form furnished by the building official, by a date not more than 10 days from the
 - 11 date the notice was posted or seven days from the date the notice was published in the
 - 12 newspaper, whichever date is later.
- 13 F. If a request for a hearing is timely received, the Demolition Review Committee will conduct
- 14 a hearing at least fifteen (15) days, but not more than thirty (30) days, from the date of the
- 15 request.
- 16 G. Notice for hearings before the Demolition Review Committee will be published in a daily
- 17 newspaper of general circulation within the City at least ten (10) days prior to the hearing and
- 18 mailed to the applicant or authorized agent at least ten (10) days prior to the hearing. In addition,
- 19 a notice must be posted on the property by the applicant in such a manner as to be clearly visible
- 20 from a public right-of-way at least ten (10) days prior to the date of the hearing. The applicant
- 21 must certify, for the record of the hearing, that the posting was accomplished. The posted notice
- 22 must contain a brief description of the proposal, the time, date and place of the hearing, and the
- 23 phone number and address for contact with the building official.
- 24 H. Within fifteen (15) days of the hearing, or within fifteen (15) days of the receipt of the
- 25 report described in ~~AMC section~~ 15.04.216.A.1 is received, whichever date is later, the
- 26 Demolition Review Committee shall issue its decision in writing and mail it to the applicant and
- 27 all persons who appeared and spoke at the hearing.
- 28 I. The decision of the Demolition Review Committee may be appealed to the City Council by
- 29 the applicant or someone who spoke at the hearing. In addition, the City Council council may
- 30 review the decision on its own motion. The decision is appealed by filing a notice of appeal with

1 the City ~~Manager Administrator~~. The appeal fee, as set by resolution of the City Council
2 council, must accompany the notice of appeal. The appeal must be filed within fifteen (15) days
3 of the date the decision of the committee is mailed. The appeal notice must contain:

- 4 1. the appellant's name and address,
- 5 2. a reference to the decision sought to be reviewed,
- 6 3. a statement that the appellant is the applicant or someone who appeared and testified at
7 the hearing,
- 8 4. the date of the decision being appealed, and
- 9 5. the specific grounds for which the decision should be reversed or modified, based on the
10 applicable standards.

11 J. The notice of appeal, together with notice of the date, time and place of the hearing on the
12 appeal by the Council will be mailed to those who appeared at the hearing before the Demolition
13 Review Committee at least twenty (20) days prior to the hearing. The appeal before the council
14 shall be a de novo hearing based solely on the evidence in the record made before the Demolition
15 Review Board. The applicant shall have the burden to prove the standards have been met. The
16 council may affirm, reverse or modify the decision and may approve or deny the request, or grant
17 approval with conditions. The City Council shall make findings and conclusions, and make a
18 decision based on the record before it as justification for its action. The City Council shall cause
19 copies of a final order to be sent to all persons participating in the appeal.

20 **SECTION 115.** Ashland Municipal Code 15.04.216 is hereby amended as follows:

21 **15.04.216 Demolition and Relocation Standards**

22 A. For demolition or relocation of structures erected more than forty-five (45) years prior to the
23 date of the application:

- 24 1. The applicant must demonstrate that either subparagraphs a or b apply:
 - 25 a. The structure cannot be rehabilitated or reused on site as part of any economically
26 beneficial use of the property. In determining whether an economically beneficial use
27 can be made of the property, the Demolition Review committee may require the
28 applicant to:
 - 29 (i) Furnish an economic feasibility report prepared by an architect, developer, or
30 appraiser, or other person who is experienced in rehabilitation of buildings that

1 addresses the estimated market value of the property on which the building lies,
2 both before and after demolition or removal, or

3 (ii) Market the property utilizing a marketing plan approved by the Demolition
4 Review Committee or by advertising the property in the Ashland Daily Tidings **or**
5 **and** Medford Mail Tribune at least eight times and at regular intervals for at least
6 90 days and by posting a for sale sign on the property, four to six square feet in size
7 and clearly visible from the street, for the same 90 day period.

8 b. The structure proposed for demolition is structurally unsound despite efforts by the
9 owner to properly maintain the structure.

10 2. In addition to **Subsections subparagraphs** a or b above, the applicant must also:

11 a. Submit a redevelopment plan for the site that provides for replacement or rebuilt
12 structure for the structure being demolished or relocated. The replacement or rebuilt
13 structure must be a minimum of 1,000 square feet, unless the structure being demolished
14 or relocated is less than 1,000 square feet. If the structure is less than 1,000 square feet,
15 the replacement structure must be a minimum of 500 square feet. The redevelopment
16 plan must indicate in sufficient detail the nature, appearance and location of all
17 replacement or rebuilt structures. No replacement structure is required, however, if:

18 (i) the applicant agrees to restrict the property to open space uses and a finding is
19 made that such restriction constitutes a greater benefit to the neighborhood than
20 redevelopment would, or

21 (ii) the structure being demolished or relocated is a nonhabitable accessory
22 structure.

23 b. Demonstrate, if the application is for a demolition, the structure cannot be
24 practicably relocated to another site.

25 3. If a permit is issued and the redevelopment plan:

26 a. Requires a site review permit, no demolition or relocation may occur until the site
27 review permit has been issued, unless the site is restricted to open space uses as
28 provided in **AMC section** 15.04.216.A.2.

29 b. Does not require a site review permit, no demolition or relocation may occur until
30 the building permit has been issued for the replacement or rebuilt structure, unless the

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site is restricted to open spaces uses as provided in **AMC section** 15.04.216.A.2.

4. The Demolition Review Committee may require the applicant to post with the City a bond, or other suitable collateral as determined by the City ~~Manager~~ **Administrator**, ensuring the safe demolition of the structure and the completed performance of the redevelopment plan.

B. For demolition or relocation of structures erected less than **forty-five (45)** years from the date of the application:

1. The applicant:

a. Has the burden of proving the structure was erected less than **forty-five (45)** years from the date of the application. Any structure erected less than **forty-five (45)** years from the date of the application, which replaced a structure demolished or relocated under **AMC section** 15.04.216, shall be considered a structure subject to the standards in **AMC subsections** 15.04.216.

b. Must submit a redevelopment plan for the site that provides for a replacement or rebuilt structure being demolished or relocated. The replacement or rebuilt structure must be a minimum of 1,000 square feet, unless the structure being demolished ore relocated is less than 1,000 square feet. If the structure is less than 1,000 square feet, the replacement structure must be a minimum of 500 square feet. The redevelopment plan must indicate in sufficient detail the nature, appearance and location of all replacement or rebuilt structures. No replacement structure is required, however, if:

(i) the applicant agrees to restrict the property to open space uses and a finding is made that such restriction constitutes a greater benefit to the neighborhood than redevelopment would, or

(ii) the structure being demolished or relocated is a non-habitable accessory structure.

2. If a permit is issued and the redevelopment plan:

a. Requires a site review permit, no demolition or relocation may occur until the site review permit has been issued, unless the site is restricted to open space uses as provided in **AMC section** 15.04.216.B.

1 b. Does not require a site review permit, no demolition or relocation may occur until a
2 building permit has been issued for the structure or structures to be replaced or rebuilt,
3 unless the site is restricted to open space uses as provided in **AMC section** 15.04.216.B.

4 C. For any demolition approved under this section, the applicant is required to salvage or
5 recycle construction and demolition debris, in accordance with a demolition debris diversion
6 plan that complies with the requirements adopted the Demolition Review Committee. The
7 applicant shall submit such a plan with the application for demolition. For any relocation
8 approved under this section, the applicant must also comply with the provisions of **AMC**
9 Chapter 15.08.

10 **SECTION 116.** Ashland Municipal Code 15.04.240 is hereby amended as follows:

11 **15.04.240 Certificate of Occupancy**

12 No building for which a permit has been issued shall be occupied nor shall utilities be released
13 until a final inspection has been made and a certificate of occupancy has been issued by the
14 Building Official. Such Certificate shall not be issued until all relevant requirements of Title 15
15 of the Ashland Municipal Code have been met and all requirements of the Planning Commission
16 shall have been completed. However, with respect to requirements of the Planning Commission,
17 which shall include but not be limited to variance, conditional use permits, site plans and planned
18 unit developments, the Building Official may, unless otherwise directed by the Planning
19 Commission or City Council, release a temporary Certificate of Occupancy and a temporary
20 release of utilities before the installation and completion of such requirements, and provided the
21 owner has posted a performance bond satisfactory to the City **Manager Administrator** to insure
22 the installation of said requirements within a specified time which **time** must also be satisfactory
23 to the City **Manager Administrator**.

24 **SECTION 117.** Ashland Municipal Code 16.20.190 is hereby amended as follows:

25 **16.20.190 Public Hearing**

26 In the event that a grantee fails to provide evidence reasonably satisfactory to the City as
27 provided in **AMC section** 16.20.180, the City **Manager Administrator** shall refer the apparent
28 violation or noncompliance to the City Council. The City Council shall provide the grantee with
29 notice and a reasonable opportunity to be heard concerning the matter.

30 **SECTION 118.** Ashland Municipal Code 16.26.060 is hereby amended as follows:

1 **16.26.060 Operation of a Cable System Without a Franchise**

2 **A.** Any person who occupies rights-of-way for the purpose of operating or constructing a cable
3 system or provides cable service over a cable system and who does not hold a valid franchise
4 from the City shall be subject to all requirements of this chapter. The City **Manager**
5 **administrator** shall have the authority:

6 **1A.** To require such person to enter into a franchise within 30 days of receipt of written
7 notice that a franchise is required; or

8 **2B.** To require such person to remove its property and restore the affected area to a condition
9 satisfactory to the City. The City **Manager administrator** may direct city personnel, or may
10 employ contractors, to remove the property and restore the affected area to a condition
11 satisfactory to the City and charge the person the costs therefore; ~~or~~

12 **3C.** To take any other action it is entitled to take under applicable law.

13 **BD.** In no event shall a franchise be created unless it is issued by the City pursuant to this
14 chapter and subject to a written franchise agreement.

15 **SECTION 119.** Ashland Municipal Code 9.20.040 is hereby deleted in its entirety as follows:

16 ~~**9.20.040 — Polystyrene Foam Task Force Formed**~~

17 ~~**The Mayor, with confirmation by the City Council, shall appoint five (5) persons to work**~~
18 ~~**with local recycling awareness groups to actively promote the following:**~~

19 ~~**A. Support and monitor recycling projects, including research and demonstration**~~
20 ~~**projects, in order to increase the percentage of disposable plastics products which are**~~
21 ~~**recycled and/or decrease the amount of municipal solid waste deposited in landfills. The**~~
22 ~~**task force may recommend to City Council methods and specific goals, in terms of quality**~~
23 ~~**and quantity, for reduction of disposable plastic products in landfills and in the litter**~~
24 ~~**stream.**~~

25 ~~**B. Work toward the total elimination of polystyrene foam and other disposable plastic**~~
26 ~~**products as a way to reduce litter and reduce the amount of solid wastes deposited in**~~
27 ~~**landfills is a long term community goal. To these ends, the task force is requested to**~~
28 ~~**consider the following aspects in their recommendations:**~~

29 ~~**1. Public Education and Promotion**~~

30 ~~**2. Alternative Product Recycling/Energy Conversion**~~

1 ~~3. Financial Assistance~~

2 ~~4. Alternative Products Research (e.g., photo degradable and biodegradable additives,~~
3 ~~etc.)~~

4 **SECTION 120. Codification.** In preparing this ordinance for publication and distribution, the
5 City Recorder shall not alter the sense, meaning, effect, or substance of the ordinance, but within
6 such limitations, may:

- 7 (a) Renumber sections and parts of sections of the ordinance;
- 8 (b) Rearrange sections;
- 9 (c) Change reference numbers to agree with renumbered chapters, sections, or subsections;
- 10 (d) Delete references to repealed sections;
- 11 (e) Substitute the proper section, subsection, or chapter numbers;
- 12 (f) Change capitalization and spelling for the purpose of uniformity;
- 13 (g) Add headings for purposes of grouping like sections together for ease of reference;
- 14 (h) Correct manifest clerical, grammatical, or typographical errors; and
- 15 (i) Substitute the word “Manager” for “Administrator” where appropriate, including in Title
16 18, the Ashland Land Use Ordinance.

17 **SECTION 121. Severability.** Each section of this ordinance, and any part thereof, is severable,
18 and if any part of this ordinance is held invalid by a court of competent jurisdiction, the
19 remainder of this ordinance shall remain in full force and effect.

20 PASSED by the City Council this _____ day of _____, 2020.

21
22 ATTEST:

23
24
25 _____
26 Melissa Huhtala, City Recorder

27 SIGNED and APPROVED this _____ day of _____, 2020.

28
29
30 _____
John Stromberg, Mayor

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Reviewed as to form:

Katrina L. Brown, Assistant City Attorney