

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 18.3.10, 18.4.3.080, 18.4.4, 18.5.1, 18.5.3.060, 18.5.5.020, 18.5.7 AND 18.6.1 OF THE ASHLAND LAND USE ORDINANCE TO AMEND DEVELOPMENT STANDARDS FOR WILDFIRE LANDS. THIS ORDINANCE ALSO AMENDS THE OFFICIAL PHYSICAL AND ENVIRONMENTAL CONSTRAINTS MAP TO EXPAND THE BOUNDARY OF ASHLAND’S DESIGNATED WILDFIRE LANDS TO INCLUDE ALL PROPERTIES WITHIN THE CITY LIMITS.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.

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

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

WHEREAS, the City Council finds that the Ashland 2014 Wildfire Hazard Zone Evaluation demonstrated that the Wildfire Lands overlay boundary established in 1992 does not incorporate all areas within the City that meet the criteria to be considered a Wildfire Hazard Zone as set forth by OAR Chapter 629, Division 044, and

WHEREAS, the City Council has determined that the expansion of the Wildfire Lands overlay boundary to include all properties within the City Limits will enhance several elements of the fire safety strategy of the city and will assist in mitigating the threat of wildfire to the community which is a legitimate and beneficial goal; and

WHEREAS, the City of Ashland has determined that the application of development standards for wildfire lands, and regulation of landscape profiles for new construction, supports the following City Comprehensive Plan Environmental Resources Goal: “Protect Life, property and environmental resources in Ashland’s suburban/wildland interface area from the devastating effects of wildfire. Lessen the possibility of wildfire spreading to the Ashland watershed from the urban/wildland interface area”, and

WHEREAS, the City of Ashland has determined that implementation of this ordinance will assist in preparing the City to be more resilient to climate change impacts, including wildfire, as expressed in the 2017 Climate Energy Action Plan, and

WHEREAS, the Planning Commission of the City of Ashland conducted on June 26, 2018 a duly advertised public hearing on amendments to the Ashland Municipal Code and Land Use Ordinances concerning the establishment of standards to reduce or minimize the potential impacts of wildfire on properties, the occupants of properties and the occupants of adjacent properties; and

WHEREAS, the City Council of the City of Ashland, following the close of the public hearing and record, deliberated and conducted first and second readings approving adoption of the Ordinance in accordance with Article 10 of the Ashland City Charter; and

WHEREAS, the City Council of the City of Ashland has determined that in order to protect and benefit the health, safety and welfare of existing and future residents of the City, it is necessary to amend the Ashland Municipal Code and Land Use Ordinance in the manner proposed, that an adequate factual base exists for the amendments, the amendments are consistent with the comprehensive plan and that such amendments are fully supported by the record of this proceeding.

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

SECTION 1. Chapter 18.3.10.100 [Development Standards for Wildfire Lands] of the Ashland Land Use Ordinance is hereby repealed in its entirety and replaced as follows:

18.3.10.100 Development Standards for Wildfire Lands

It is the purpose of the Development Standards for Wildfire Lands to provide supplementary development regulations to underlying zones to reduce or minimize the potential impacts of wildfire on properties, the occupants of properties and the occupants of adjacent properties. These standards function to balance the need to preserve natural habitat, prevent erosion, provide for aesthetic and functional landscaping, and to facilitate access to manmade structures by firefighters in the event of a wildfire.

A. Requirements for Subdivisions, Performance Standards Developments, Site Design Review or Partitions.

1. Applicability. A Fire Prevention and Control Plan shall be required with the submission of any application for an outline plan approval of a Performance Standards Development, preliminary plat of a subdivision, land partition, or Site Design Review increasing a building's footprint by 200 square feet or greater (except for Site Design Review of Accessory Residential Units).
2. Plan Submission Requirements. The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall address the General Fuel Modification Area Requirements outlined in 18.3.10.100.B and include the submission materials listed below. The Staff Advisor may waive a plan submittal requirement if the Staff Advisor determines it is not reasonably necessary in order to make a decision on the application.

- a. The location and dimensions of all existing and proposed structures, parking areas and driveways on the property.
 - b. The location, dimension, and grade of fire apparatus access roads and driveways serving all structures on the property.
 - c. The location and dimensions of all structures upon adjoining properties located within 30 feet of a shared property line.
 - d. The location of all existing and proposed fire hydrants.
 - e. Site contours showing two foot intervals detailing elevation and slope.
 - f. A tree and vegetation management plan showing:
 - i. Areas where shrubs and bushes will be removed including a description of the species and size,
 - ii. Areas where trees will be removed to reduce interlocking tree canopies including a description of the species and diameter at breast height (DBH),
 - iii. New trees, shrubs and bushes to be planted including the species, location and size at maturity,
 - iv. Significant trees to be retained.
 - g. The location of and information addressing required General Fuel Modification Area setback areas as described in subsection 18.3.10.100.B.
 - h. A schedule and timetable for vegetation removal and thinning shall be included in the Fire Prevention and Control Plan. An exception to the implementation schedule may be granted by the Fire Code Official.
3. Approval Criteria. The hearing authority, in consultation with the Fire Code Official, shall approve the Fire Prevention and Control Plan upon demonstration of compliance with the standards required by this chapter.
- a. In order to meet the purpose and standards of this chapter the hearing authority, in consultation with the Fire Code Official, may require the following through the imposition of conditions attached to the approval.
 - i. Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.
 - ii. Clearing of sufficient vegetation to reduce fuel load.
 - iii. Removal of all dead and dying trees.
 - iv. Relocation of proposed structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.
 - v. Preservation or planting a sufficient number of trees and plants for erosion prevention and enhancement of water resources,
4. Fire Prevention and Control Plan Maintenance. The property owner of a lot, or Home Owners Association for areas held in common, shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan approved by the hearing authority.
- a. Provisions for the maintenance of a required Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the development, or otherwise recorded in the Jackson County real property

records, and the City shall be named as a beneficiary of such covenants, restrictions, and conditions.

B. Requirements for Construction of all Buildings and Decks.

1. Applicability. A fuel modification area is defined as an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations. Establishment of a fuel modification area does not involve stripping the ground of all native vegetation. A fuel modification area shall be required for the following construction:
 - a. All new buildings that increase lot coverage by 200 square feet or greater, shall have a fuel modification area covering the full extent of the property.
 - b. Decks, additions to existing buildings, and detached accessory structures which increase lot coverage by 200 square feet or greater, shall have a General Fuel Modification Area extending 30 feet from the furthest extent of the addition, deck, or accessory structure, or to the property line, whichever is less.

2. General Fuel Modification Area Standards. To reduce fire spread both from and to structures on the property, and to adjoining properties, the establishment and maintenance of a fuel modification area requires the following:
 - a. All standing dead and dying vegetation shall be removed from the property, except when considered ecologically beneficial.
 - b. Newly planted vegetation within 30 feet of any building or deck shall not include species listed on the City's Prohibited Flammable Plant List. This setback distance shall be increased by ten feet for each ten percent increase in the average slope of the property over ten percent.
 - c. Within five feet of a new building, addition, or deck, existing vegetation listed on the City's Prohibited Flammable Plant List shall be removed, with the exceptions of significant trees as defined in part 18.6.
 - d. Within five feet of a new building, addition, or deck, combustible man-made and natural materials are prohibited, including but not limited to bark mulch, stored wood, and accumulation of dry leaves and needles, except when permitted as follows:
 - i. Combustible materials may be permitted within five feet of a structure when approved by the Staff Advisor in consultation with the Fire Code Official, has determined the portion of the structure adjoining the combustible material is constructed with ignition resistant building materials sufficient to reduce the spread of fire from the combustible materials.
 - e. Existing trees, which are identified on the City's Prohibited Flammable Plant List shall be maintained to provide a clearance from new structures, and additions, as follows:
 - i. Ten (10) feet horizontal clearance from a chimney outlet. At no time shall tree crowns or limbs extend into the vertical plane of a chimney outlet.

- ii. Ten (10) feet above the roof of a new building, or addition.
- iii. Ten (10) feet from the furthest extension of a new building, or addition or deck.
- iv. In circumstances where pruning a tree to meet the clearance from structures requirements of 18.3.10.100.B.2.d. i-iii, would compromise the health and survival of existing trees, the Staff Advisor may modify those requirements, but at a minimum the trees shall be pruned to maintain a ground clearance consistent with 18.3.10.100.B.2.i.
- f. Canopy spacing of the outermost limbs of trees on the City's Prohibited Flammable Plant List shall be separated by at least ten (10) feet at mature size.
 - i. Groups of trees in immediate proximity to each other may be considered as one tree canopy when approved by the Staff Advisor in consultation with the Fire Code Official.
 - ii. Canopy spacing requirements do not apply to significant trees, as defined in part 18.6, or trees that are not listed on the City's Prohibited Flammable Plant List.
- g. Fire resistant trees, those not listed on the City's Prohibited Flammable Plant List, shall be maintained to provide clearance from structures as follows:
 - i. 10 feet horizontal clearance from a chimney outlet. At no time shall tree crowns or limbs extend into the vertical plane of a chimney outlet.
 - ii. Tree limbs shall be pruned to ensure they do not touch any part of a structure including but not limited to roofs, eaves, and decks.
- h. Shrubs and bushes which are identified on the City's Prohibited Flammable Plant List, shall:
 - i. not be planted within 30 feet of any building or deck;
 - ii. when planted further than 30' from a building or deck they shall be separated by a minimum of two times the shrub's height at maturity.
- i. Existing trees which are identified on the City's Prohibited Flammable Plant List shall be pruned to provide a ground clearance of a minimum eight feet above the ground, or 1/3 of the tree height, whichever is less.
- j. The vertical clearance between the top of understory vegetation within the drip line of a tree, and the lowest tree limbs shall be at least three times the height of vegetation where either the tree or vegetation is listed on the City's Prohibited Flammable Plant list.
- k. Where necessary for erosion control, slope stability, riparian and wetland preservation and enhancement, performing functions considered beneficial in water resource protection, or aesthetic purposes, existing vegetation may be allowed to be retained consistent with an approved Fire Prevention and Control Plan, or upon written approval of the Staff Advisor in consultation with the Fire Code Official.
- l. Fuel Modification in areas which are also classified as Hillside Lands or Water Resource Protection Zones, shall be included in the erosion control measures

outlined in section 18.3.10.090 Development Standards for Hillside Lands and Management Plan for Water Resource Protection Zones in 18.3.11.110.

m. The General Fuel Modification Area standards outlined in 18.3.10.100.B.2 may be reduced or waived when approved by the Staff Advisor in consultation with the Fire Code Official, provided it is demonstrated that the fire risk has been reasonably reduced such as in cases where ignition resistant materials and construction methods, or vegetation type and separation, function to enhance the structure's protection from exterior wildfire exposure

3. Roofing. Where 50% or more of a structure's roof area is replaced within a five-year period, the roof covering shall be constructed or re-roofed with a Class B or better roof covering. All re-roofing of existing structures in the Wildfire Hazard Zone shall be done under approval of a zoning permit.
4. Fencing. Where fencing is attached to a building or deck, the fencing shall be made of non-combustible materials within five feet of the connection to the structure in compliance with the requirements in 18.4.4.060.

C. Implementation.

1. For lands required to comply with subsection 18.3.10.100.A. that have been partitioned, subdivided or received site design review, all requirements of the Fire Prevention and Control Plan shall be complied with prior to bringing combustible materials onto the property.
2. The Fire Prevention and Control Plan must be implemented during installation of public or private utilities and site improvements required of a subdivision, partition, Site Design Review or Performance Standards Development, and shall be considered part of the applicant's obligations for land development.
 - a. The plan shall be implemented prior to final plat approval for lots created by partitions and for subdivisions or Performance Standards developments not requiring public improvements. The Fire Code Official, or designee, shall inspect and approve the implementation of the Fire Prevention and Control Plan and provide written notice to the Staff Advisor that the plan was completed as approved by the hearing authority, or as amended in accordance with subsection 18.3.110 D.
 - b. Final inspection of requisite fuel modification areas will be conducted prior to bringing combustible materials onto the property to verify compliance with the fuel reduction standards set forth in subsection 18.3.10.100 B.
3. For construction of buildings and decks requiring a General Fuel Modification Area, the establishment the fuel modification area provided for in section 18.3.10.100 B shall be completed before bringing combustible materials onto the property. Upon completion of the construction, all General Fuel Modification Area tree and shrub clearance standards shall be verified. The property owner, or subsequent property owners, shall be responsible for maintaining the property in

accord with the General Fuel Modification Area standards as defined in 18.3.10.100.B.2.

D. Minor Amendments.

Changes to a previously approved Fire Prevention and Control Plan are subject to ministerial approval by the Staff Advisor, with written concurrence from the Fire Code Official, when it is demonstrated that the proposed amendments do not constitute an increased risk to the spread of wildfire.

1. Minor amendments to an approved Fire Prevention and Control Plan include the following:
 - a. A change in the implementation schedule provided within an approved Fire Prevention and Control Plan.
 - b. A delay in the implementation of required fuels reduction in consideration of weather conditions, and fire hazard potential, during the period of construction.
 - c. The retention of existing non-fire resistant trees or shrubs, or planting of new non-fire resistant trees or shrubs, within thirty (30) feet of a structure.
 - d. A reduction of the requisite fuel modification area to address observed field conditions including preservation of riparian, wetland, and slope stabilizing vegetation.
 - e. A reduction of the requisite fuel modification area in recognition of the use of fire resistant materials and construction methods that function to provide the structure with reduced exterior wildfire exposure.
 - f. A change in the Fire Prevention and Control Plan that results in a tree canopy separation of less than ten (10) feet between the outermost limbs of trees which are identified on the City's Prohibited Flammable Plant List.
 - f. The temporary storage of combustible materials on a property prior to completion of a Fire Prevention and Control Plan or establishment of a required fuel modification area.
 - g. A reduction of the spacing between the top of the understory vegetation and the lowest tree limbs not meeting the requirements of section 18.3.10.100.B.2.

E. Exceptions to a Fire Prevention and Control Plan and General Fuel Modification Area Standards.

The approval authority may approve exceptions to the Development Standards for Wildfire Lands to meet the purpose of this chapter subject to approval through a Type I procedure for the following:

1. An action prescribed by 18.3.10.100 that includes the removal of trees designated to be retained as part of an approved Planning Action.

2. A change that includes the removal of native vegetation within a Water Resources Protection Zone.
3. A change in the Fire Prevention and Control Plan not specifically listed as a minor amendment under 18.3.10.100 D.1
4. Tree removal on C-1, C-1-D, E-1, CM, M-1, HC, R-2, R-3, and NN-2, zoned properties subject to Tree Removal Permit requirements set forth in chapter 18.5.7.

SECTION 2. Chapter 18.3.10.020.A.3 [Physical Constraints Review Permit, Applicability] of the Ashland Land Use Ordinance is hereby amended as follows:

18.3.10.020.A. Physical Constraints Review Permit

1. [18.3.10.020.A.1 is unchanged]
2. [18.3.10.020.A.2 is unchanged]
3. Tree Removal.
 - a. *Flood Plain Corridor Land.* The following tree removal activities in areas identified as Flood Plain Corridor Land. See also, subsection 18.3.11.050.A.1 for tree pruning and removal standards in water resource protection zones.
 - i. The removal of three or more living trees of over six inches DBH, or the removal of five percent of the total number of living or dead trees over six inches DBH, whichever is greater, on any lot within five-year period, or any form of commercial logging.
 - ii. The removal of one or more living conifers having a trunk 18 caliper inches or larger in diameter at breast height (DBH), and broadleaf trees having a trunk 12 caliper inches or larger at breast height (DBH), greater than two feet DBH, or living broadleaf trees greater than one foot DBH.
 - b. *Hillside Land and Severe Constraints Land.* Tree removal, in areas identified as Hillside Land and Severe Constraint Land, except that a permit need not be obtained for tree removal that is not associated with development, and done for the purposes of wildfire management ~~and carried out in accord with a Fire Prevention and Control Plan, approve by the Fire Chief.~~ provided one or more of the following conditions is met:
 - i. The tree removal is carried out in accord with an approved Fire Prevention and Control Plan.
 - ii. The tree is a conifer with a trunk of less than 18 caliper inches in diameter at breast height (DBH), or a broadleaf tree having a trunk of less than 12 caliper inches at breast height (DBH), and the removal is recommended by the Fire Code Official, and approved by the Staff Advisor, as part of a comprehensive fuels reduction strategy to

implement a General Fuel Modification Area standards consistent with 18.3.10.100.

- c. *Commercial Logging.* Commercial logging in areas identified as Flood Plain Corridor Land, Hillside Land, or Severe Constraints Land.

SECTION 3. Chapter 18.3.10.040. [Physical Constraints Review Permit, Application Submission Requirements] of the Ashland Land Use Ordinance is hereby amended as follows:

18.3.10.040 Application Submission Requirements

The following information is required for a Physical Constraints Review Permit application: **except where the Staff Advisor determines a submission requirement is not reasonably necessary in order to make a decision on the application.**

[The remainder of 18.3.10.040 is unchanged]

SECTION 4. Chapter 18.3.10.090.D [Physical Constraints Review Permit, Development Standards for Hillside Lands] of the Ashland Land Use Ordinance is hereby amended as follows:

18.3.10.090 Development Standards for Hillside Lands

D. Tree Conservation, Protection and Removal. All development on Hillside Lands shall conform to the following requirements.

1. *[18.3.10.090.D.1 is unchanged]*
2. *[18.3.10.090.D.2 is unchanged]*
3. Tree Conservation in Project Design. Significant **conifer trees having a trunk 18 caliper inches or larger in diameter at breast height (DBH) (two-foot DBH or greater conifers and one-foot DBH or greater broadleaf), and broadleaf trees having a trunk 12 caliper inches or larger in diameter at breast height (DBH),** shall be protected and incorporated into the project design whenever possible.
 - a. Streets, driveways, buildings, utilities, parking areas, and other site disturbances shall be located such that the maximum number of existing trees on the site are preserved, while recognizing and following the standards for fuel reduction if the development is located in
 - b. Building envelopes shall be located and sized to preserve the maximum number of trees on site while recognizing and following the General Fuel Modification Area standards per 18.3.10.100 if the development is located in Wildfire Lands.
 - c. Layout of the project site utility and grading plan shall avoid disturbance of tree protection areas.

4. *[18.3.10.090.D.4 is unchanged]*

5. Tree Removal. Development shall be designed to preserve the maximum number of trees on a site. The development shall follow the standards for fuel reduction if the development is located in Wildfire Lands. When justified by findings of fact, the hearing authority may approve the removal of trees for one or more of the following conditions.

- a. The tree is located within the building envelope.
- b. The tree is located within a proposed street, driveway, or parking area.
- c. The tree is located within a water, sewer, or other public utility easement.
- d. The tree is determined by a landscape professional to be dead or diseased, or it constitutes an unacceptable hazard to life or property when evaluated by the standards in 18.3.10.090.D.2.
- e. The tree is located within or adjacent to areas of cuts or fills that are deemed threatening to the life of the tree, as determined by a landscape professional.
- f. The tree is identified for removal as part of an approved fire prevention and control plan per section 18.3.10.100.A, or with the exception of significant trees the tree removal is recommended by the Fire Code Official, and approved by the Staff Advisor, as part of a comprehensive fuels reduction strategy to implement a General Fuel Modification Area consistent with 18.3.10.100 B.**

6. Tree Replacement. Trees approved for removal, with the exception of trees removed because they were determined to be diseased, dead, ~~or~~ a hazard, **or to comply with General Fuel Modification Area requirements,** shall be replaced in compliance with the following standards.

- a. Replacement trees shall be indicated on a tree replanting plan. The replanting plan shall include all locations for replacement trees, and shall also indicate tree planting details.
- b. Replacement trees shall be planted such that the trees will in time result in canopy equal to or greater than the tree canopy present prior to development of the property. See Figure 18.3.10.090.D.6.b. The canopy shall be designed to mitigate of the impact of paved and developed areas, reduce surface erosion, and increase slope stability. Replacement tree locations shall consider impact on the wildfire prevention and control plan. The hearing authority shall have the discretion to adjust the proposed replacement tree canopy based upon site-specific evidence and testimony.
- c. Maintenance of replacement trees shall be the responsibility of the property owner. Required replacement trees shall be continuously maintained in a healthy manner. Trees that die within the first five years after initial planting must be replaced in kind, after which a new five-year replacement period shall begin. Replanting must occur within 30 days of notification unless otherwise noted.

7. *[18.3.10.090.D.7 is unchanged]*

SECTION 5. Chapter 18.4.3.080.E [Parking and Circulation, Vehicle Area Design] of the Ashland Land Use Ordinance is hereby amended as follows:

18.4.3.080 Vehicle Area Design

E. Parking and Access Construction. The development and maintenance as provided below, shall apply in all cases, except single-family dwellings.

1. *[18.4.3.080.E.1 is unchanged]*

2. *[18.4.3.080.E.2 is unchanged]*

3. *[18.4.3.080.E.3 is unchanged]*

4. *[18.4.3.080.E.4 is unchanged]*

5. *[18.4.3.080.E.5 is unchanged]*

6. Walls and Hedges

a. Where a parking facility is adjacent to a street, a decorative masonry wall or **fire resistant broadleaf** evergreen **site-obscuring** hedge screen between 30 and 42 inches in height and a minimum of 12 inches in width shall be established parallel to and not nearer than two feet from the right-of-way line, pursuant to the following requirements.

- i. The area between the wall or hedge and street line shall be landscaped.
- ii. Screen planting shall be of such size and number to provide the required screening within 12 months of installation.
- iii. All vegetation shall be adequately maintained by a permanent irrigation system, and said wall or hedge shall be maintained in good condition.
- iv. Notwithstanding the above standards, the required wall or screening shall be designed to allow access to the site and sidewalk by pedestrians, and shall meet the vision clearance area requirements in section 18.2.4.040, **and shall not obstruct fire apparatus access, fire hydrants, or other fire appliances.**

b. In all zones, except single-family zones, where a parking facility or driveway is adjacent to a residential or agricultural zone, school yard, or like institution, a sight-obscuring fence, wall, or **fire resistant broadleaf** evergreen **site-obscuring** hedge shall be provided, pursuant to the following requirements.

- i. The fence, wall or hedge shall be placed on the property line and shall be between five feet and six feet in height as measured from the high grade side of the property line, except that the height shall be reduced to 30 inches within a required setback area and within ten feet of a street property line.
- ii. Screen plantings shall be of such size and number to provide the required screening within 12 months of installation.
- iii. Adequate provisions shall be made to protect walls, fences, or plant materials from being damaged by vehicles using said parking area.

- iv. Notwithstanding the above standards, the required wall or screening shall be designed to meet the vision clearance area requirements in section 18.2.4.040.
- v. The fence, wall, or hedge shall be maintained in good condition.

7. *[18.4.3.080.E.7 is unchanged]*

8. *[18.4.3.080.E.8 is unchanged]*

SECTION 6. Chapter 18.4.4.030. [Landscaping, Lighting and Screening, Landscaping and Screening] of the Ashland Land Use Ordinance is hereby amended as follows:

18.4.4.030 Landscaping and Screening

A. *[18.4.4.030.A is unchanged]*

B. *[18.4.4.030.B is unchanged]*

C. Landscape Design and Plant Selection. The landscape design and selection of plants shall be based on all of the following standards.

1. *[18.4.4.030.C.1 is unchanged]*

2. *[18.4.4.030.C.2 is unchanged]*

3. *[18.4.4.030.C.3 is unchanged]*

4. *[18.4.4.030.C.4 is unchanged]*

5. Screening

- a. Evergreen shrubs shall be used where a sight-obscuring landscape screen is required.
- b. Where a hedge is used as a screen, **fire-resistant and drought tolerant** evergreen shrubs shall be planted so that not less than 50 percent of the desired screening is achieved within two years and 100 percent is achieved within four years. Living groundcover in the screen strip shall be planted such that 100 percent coverage is achieved within two years.

D. *[18.4.4.030.D is unchanged]*

E. *[18.4.4.030.E is unchanged]*

F. *[18.4.4.030.F is unchanged]*

G. *[18.4.4.030.G is unchanged]*

H. [18.4.4.030.H is unchanged]

I. **Water Conserving Landscaping.** [Section description and narrative is unchanged]

1. Landscaping Design Standards

- a. *Landscaping Coverage.* Water conserving designs shall have plant coverage of not less than 90 percent with five years of planting, but are not required to meet the standard of 50 percent coverage within one year.
- b. *Plant Selection.* At least 90 percent of plants in the non-turf areas shall be listed as drought tolerant and fire-resistant in the City's Water-Wise Landscaping website, or be similarly well-suited for this climate of region as determined by the Staff Advisor. Up to ten percent of the plants may be of a non-drought tolerant variety or species as long as they are grouped together and are located in a separate irrigation zone.
- c. *Screening.* Plant screening hedges to attain 50 percent coverage after two years.
- d. *Mulch.* Add a minimum of two inches of mulch in non-turf areas to the soil surface after planting, **with the exception of within five of a building or deck where bark mulch and other combustible materials are not permitted per the general fuel modification area standards in 18.3.10.100.** Neither large nuggets nor fine bark may be used for mulch. Non-porous material shall not be placed under the mulch.
- e. *Turf and Water Areas.* Limit combined turf or water areas (i.e., pools, ponds, and fountains) to 20 percent of the landscaped areas. Turf limitations do not apply to public parks, private common open space, required outdoor recreation areas, golf courses, cemeteries, and school recreation areas.
- f. *Fountains.* Design all fountains to recycle their water.
- g. *Turf Location.* Turf is restricted to slopes less than ten percent grade.
- h. *Berms and Raised Beds.*
 - i. No more than five percent of landscaped area of any lot or project may be berms or raised beds higher than one foot unless there is demonstrated need for sound or safety barrier. If allowed, berms must be no taller than 1/6 of their width.
 - ii. All plantings on berms one foot or greater in height must be drought tolerant.
 - iii. Only drip irrigation is allowed on berms more than one foot in height.

- i. *Soil Quality.* When new vegetation is planted, soils shall be amended for plant health and water absorption. Add mature compost at a rate of three cubic yards of compost per 1,000 square feet of area to be landscaped, and work soil and amendment(s) to a depth of four to six inches. This requirement may be waived for one or more of the following circumstances.
 - a. The area to be landscaped is fenced off to fully protect native soil from disturbance and compaction during construction.
 - b. Soil tests document an organic content of a least three percent based on a representative core sample taken at a rate of one test per 20,000 square feet, based on a minimum of three core sample per test. Samples shall be taken at least 40 feet apart to a depth of six inches following attainment of rough grade.
 - c. The area to be landscaped will be used to capture and treat storm water runoff, and is subject to separate design standards.

2. *[18.4.4.030.I.2 is unchanged]*

3. *[18.4.4.030.I.3 is unchanged]*

SECTION 7. Chapter 18.4.4.060.B [Landscaping, Lighting and Screening, Fences and Walls] of the Ashland Land Use Ordinance is hereby amended as follows:

18.4.4.060.B Design Standards.

Fences, walls, hedges, and screen planting shall meet the following standards, where height is measured pursuant to subsection 18.4.4.060.B.2, below. See Figure 18.4.4.060.B.1 for illustration of maximum fence heights.

1. *[18.4.4.060.B.1 is unchanged]*
2. *[18.4.4.060.B.2 is unchanged]*
3. *[18.4.4.060.B.3 is unchanged]*
4. *[18.4.4.060.B.4 is unchanged]*
5. *[18.4.4.060.B.5 is unchanged]*
6. *[18.4.4.060.B.6 is unchanged]*
7. *[18.4.4.060.B.7 is unchanged]*

- 8. Wildfire Lands Overlay. Fencing attached to a building or deck within the Wildfire Lands Overlay shall be made of non-combustible materials within five feet of the connection to the structure.**
- a. A fence with wood framing and steel mesh or other non-combustible infill panels shall be considered to comply with this section.**
 - b. A metal gate, a minimum of three feet in width, that is installed within a wood framed fence immediately adjacent to a building or deck shall be considered to comply with this section.**
 - c. Existing wood fences that are to be retrofitted to attach to a new building, addition, or deck, subject to the General Fuel Modification Area standards per 18.3.10.100.B, shall be retrofitted so the fence ends with a noncombustible material like masonry or metal to keep fire from spreading to the building or deck.**
 - d. Combustible fencing materials may be permitted within five feet of a building or deck when the Staff Advisor, in consultation with the Fire Code Official, has determined the portion of the structure adjoining the combustible material is constructed with ignition resistant building materials sufficient to reduce the spread of fire from the combustible fencing materials.**

SECTION 8. Chapter 18.5.1.010.B [General Review Procedures, Purpose and Applicability], Table 18.5.1.010, of the Ashland Land Use Ordinance is hereby amended as follows:

Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure		
Planning Actions	Review Procedures	Applicable Regulations
Access to a Street/Driveway Approach	Ministerial	Chapter 18.4.3
Annexation	Type III	Chapter 18.5.8; See Oregon Revised Statute 222.
Ordinance Interpretation	Type I or II	Chapter 18.1.5
Ordinance Text Amendment	Type III	Chapter 18.5.9
Comprehensive Plan Amendment	Type III	Chapter 18.5.9
Conditional Use Permit	Type I or II	Chapter 18.5.4
Conversion of Multifamily Dwelling Units into For-Purchase Housing	Ministerial	Section 18.2.3.200
<u>Exception to Fire Prevention and Control Plan and General Fuel Modification Area Standards</u>	<u>Type I</u>	<u>Subsection 18.3.10.100.E</u>
Exception to Site Development and Design Standards	Type I	Subsection 18.5.2.050.E
Exception to Street Standards	Type I	Subsection 18.4.6.020.B.1

Table 18.5.1.010 – Summary of Approvals by Type of Review Procedure

Planning Actions	Review Procedures	Applicable Regulations
Extension of Time Limit for Approved Planning Action	Ministerial	Section 18.1.6.040
Fence	Ministerial	Section 18.4.4.060
Hillside Standards Exception	Type I	Subsection 18.3.10.090.H
Home Occupation Permit	Ministerial	Section 18.2.3.150
Land Use Control Maps Change	Type II or III	Chapter 18.5.9
Legal Lot Determination	Ministerial	Chapter 18.1.3
Modification to Approval Minor Modification Major Modification	Ministerial Per original review	Chapter 18.5.6
Non-Conforming Use or Structure, Expansion of	Ministerial or Type I	Chapter 18.1.4
Partition or Re-plat of 2-3 lots Preliminary Plat Final Plat Minor Amendment	Type I Ministerial Ministerial	Chapter 18.5.3 Chapter 18.5.3 Subsection 18.5.3.020.G
Performance Standards Option Outline Plan Final Plan Minor Amendment	Type II Type I Ministerial	Chapter 18.3.9 Chapter 18.3.9 Subsection 18.5.3.020.G
Physical and Environmental Constraints Permit	Type I	Chapter 18.3.10
Property Line Adjustments, including Lot Consolidations	Ministerial	Chapter 18.5.3
Sign Permit	Ministerial	Chapter 18.4.7
Site Design Review	Type I or II	Chapter 18.5.2
Solar Setback Exception	Type I	Chapter 18.4.8
Subdivision or Replat of >3 lots Preliminary Plat Final Plat Minor Amendment	Type II Ministerial Ministerial	Chapter 18.5.3 Chapter 18.5.3 Subsection 18.5.3.020.G
Tree Removal Permit	Type I	Chapter 18.5.7
Variance	Type I or II	Chapter 18.5.5
Water Resources Protection Zone – Limited Activities and Uses	Type I	Section 18.3.11.060
Water Resources Protection Zone Reduction	Type I or II	Section 18.3.11.070
Water Resources Protection Zone – Hardship Exception	Type II	Section 18.3.11.080
Zoning District Map Change	Type II or III	Chapter 18.5.9

[With the exception of the amendment to Table 18.5.1.010 above, the remainder of Chapter 18.5.1 is unchanged]

SECTION 9. Chapter 18.5.3.060.N [Land Divisions and Property Line Adjustments, Additional Preliminary Flag Lot Partition Criteria] of the Ashland Land Use Ordinance is hereby amended as follows:

18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

[18.5.3.060.A-M and O-P are unchanged]

- N.** Both sides of the flag drive have been screened with a site-obscuring fence, wall or ~~evergreen~~ **fire resistant broadleaf evergreen site-obscuring** hedge to a height of from four to six feet, except in the front yard setback area where, starting five feet from the property line, the height shall be from 30 to 42 inches in the remaining setback area. Such fence or landscaping shall be placed **to ensure fire apparatus access is not obstructed by the encroachment of mature landscaping.** ~~at the extreme outside of the flag drive in order to ensure adequate fire access.~~

SECTION 10. Chapter 18.5.5.020 [Variances, Applicability] of the Ashland Land Use Ordinance is hereby amended as follows:

18.5.5.020 Applicability

This chapter may not be used to allow a use that is not in conformity with the uses specified by this ordinance for the district in which the land is located. Chapter 18.5.5 does not apply where this ordinance specifically provides for exceptions to development standards (e.g., exceptions to the site development and design standards, solar setback, street standards, hillside lands development standards, **wildfire lands development standards**, water resource protection zone standards).

SECTION 11. Chapter 18.5.7.020 [Tree Removal Permits, Applicability and Review Procedure] of the Ashland Land Use Ordinance is hereby amended as follows:

A. *[18.5.7.020.A is unchanged]*

B. *[18.5.7.020.B is unchanged]*

- C. Exempt From Tree Removal Permit.** The following activities are exempt from the requirement for a tree removal permit in 18.5.7.020.A, subsections A. and B, above.
1. Those activities associated with the establishment or alteration of any public park under the Ashland Parks and Recreation Commission. However, the Parks and Recreation Department shall provide an annual plan in January to the Tree Commission outlining proposed tree removal and topping activities, and reporting on tree removal and topping activities that were carried out in the previous year.
 2. Removal of trees in single family residential zones on lots occupied only by a single family detached dwelling and associated accessory structures where the

property is **less than twice the minimum lot size or otherwise ineligible to be partitioned or subdivided**, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.

3. Removal of trees in multi-family residential **and health care** zones on lots occupied only by a single family detached dwelling and associated accessory structures where the property **cannot be further developed with additional dwelling units other than an accessory residential unit**, except as otherwise regulated by chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
4. Removal of trees less than six-inches DBH in any zone, excluding those trees located within the public right of way or required as conditions of approval with landscape improvements for planning actions.
5. Removal of trees less than 18 **caliper inches in diameter at breast height (DBH) inches DBH** on any public school lands, Southern Oregon University, and other public land, excluding Heritage trees.
6. Removal of trees within the Wildfire Lands area of the City, as defined on adopted maps, for the purposes of wildfire fuel management **consistent with the fuel modification area standards in 18.3.10.100**, and in accord with the requirements of chapters 18.3.10 Physical and Environmental Constraints and 18.3.11 Water Resource Protection Zones.
7. Removal of dead trees.
8. Those activities associated with tree trimming for safety reasons, as mandated by the Oregon Public Utilities Commission, by the City's Electric and Telecommunication Utility. However, the Utility shall provide an annual plan to the Tree Commission outlining tree trimming activities and reporting on tree trimming activities that were carried out in the previous year. Tree trimming shall be done, at a minimum, by a Journeyman Tree Trimmer, as defined by the Utility, and will be done in conformance and to comply with OPUC regulations.
9. Removal of street trees within the public right-of-way subject to street tree removal permits in AMC 13.16.

D. [18.5.7.020.D is unchanged]

SECTION 12. Chapter 18.6 [Definitions] of the Ashland Land Use Ordinance is hereby amended to include the following definitions, and amend existing definitions as follows:

Fire Code Official: The Fire Chief or other designated authority charged with the administration and enforcement of the fire code, or a duly authorized representative.

Fire and Ignition resistant materials: Materials or assemblies that will not ignite and burn when subjected to fire including but not limited to masonry, concrete, stone, metal, and fire-retardant-treated wood identified for exterior use.

Fire Resistant Exterior: Exterior building materials or assemblies that restrict or retard the spread of fire through the use of fire and ignition resistant materials.

Fire Resistant Plants: Plants that are not listed on the Prohibited Flammable Plant List. Fire Resistant Plants do not readily ignite from a flame or other ignition source, and are maintained to be free of dead material. Fire-resistant plant have the ability to store water in leaves or stems, have low levels of volatile oils or resins, and contain high levels of salt or other non-resinous compounds within the plant tissues that can contribute to fire resistance.

Fire-retardant-treated wood. Wood products that, when impregnated with chemicals by a pressure process or other means during manufacture, exhibit reduced surface-burning characteristics and resist propagation of fire.

Highly Flammable Plants: A plant species that has characteristics which make it more volatile by encouraging easy ignition and the spread of fire through its foliage due to low moisture content, dense dry leaves, needles, grass-like leaves, or volatile resins and oils. Highly flammable plants are specifically those species listed on the adopted Prohibited Flammable Plant List.

Prohibited Flammable Plant List: A listing of specific highly flammable plants which are considered nuisances per Chapter 9.04 of the Ashland Municipal Code and are prohibited from being planted within a General Fuel Modification area.

Significant Tree: A conifer tree having a trunk 18 caliper inches or larger in diameter at breast height (DBH), or a deciduous tree having a trunk 12 caliper inches in diameter at breast height.

SECTION 13. Savings. Notwithstanding this amendment, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 14. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 15. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however

that any Whereas clauses and boilerplate provisions (i.e. Sections 13-15) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ____th day of _____, 2018, and duly PASSED and ADOPTED this ____th day of _____, 2018,

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2018.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney