

Council Communication

December 2, 2014, Business Meeting

Public Hearing and First Reading of an Ordinance Replacing Title 18 Land Use of the Ashland Municipal Code with a Restated and Revised Unified Land Use Ordinance

FROM:

Maria Harris, planning manager, harrism@ashland.or.us

SUMMARY:

The attached land use ordinance is proposed to replace Title 18 Land Use of the Ashland Municipal Code. The attached land use ordinance is the existing ordinance and standards combined into one document and also includes amendments to current standards. The item is scheduled for a public hearing and first reading in accordance with local and state requirements. The Planning Commission recommended approval of the revised land use ordinance, and the City Council makes the final decision on legislative proposals.

BACKGROUND AND POLICY IMPLICATIONS:

The revised land use ordinance combines the existing land use ordinance, site design and use standards, and street design standards into one document with improved organization, wording, formatting, and graphics. In addition, amendments are proposed to: address recommendations of the 2006 Land Use Ordinance Review, the planning application procedure evaluation, and green development evaluations; improve standards and procedures; standardize chapters; and address inconsistencies and clarify wording. The revised land use ordinance is also referred to as the Unified Land Use Ordinance (ULUO).

A detailed description of the project background and revised land use ordinance is provided in the attached [staff report](#).

The development of the revised land use ordinance involved a series of more than 30 meetings with the Planning Commission, advisory commissions, focus groups, and an open house. The [project web page](#) was created at the beginning of the project and updated with draft documents, a meeting schedule, and meeting packets and videos. A topic was posted on [Open City Hall](#) asking for feedback on the format and proposed amendments, and at the time of writing 133 participants reviewed the topic.

Approximately 250 postcards announcing the Planning Commission and City Council public hearings were mailed to design and development professionals, contractors, advisory commissions, and past planning applicants. In addition, newspaper notices were published for the public hearings as required by AMC 18.108.170.D.



The Planning Commission held a public hearing on [July 22, 2014](#), and recommended approval of replacing Title 18 Land Use of the Ashland Municipal Code (AMC) with the revised land use ordinance. The Commission suggested several changes, and those edits were incorporated in the draft document that originally went before the City Council on [August 19, 2014](#).

After holding a public hearing on August 19, 2014 the City Council continued the review to the October 7, 2014 meeting for further review and discussion. The Council asked the Planning Commission to provide input on the proposed changes that the Commission considered key amendments. The Planning Commission completed this task at their September 9, 2014 meeting and subsequently submitted [a report](#) to the Council.

The City Council discussed a list of key amendments at the [October 7, 2014](#) and [November 4, 2014](#) meetings. The list of key amendments was comprised of those amendments identified by the Planning Commission and additional amendments identified by the Council.

CHANGES TO DRAFT LAND USE ORDINANCE:

The City Council directed staff to make several changes to the draft land use ordinance in preparation for the December 2 public hearing and first reading. The changes included the following items and were incorporated into the attached land use ordinance.

- **cottage housing** – Removed proposed cottage housing provision. Return to the Planning Commission for further review. See section 18.2.3.090 on page 2-19.
- **solar orientation standards** – Deleted proposed requirements regarding design of habitable structures and roofs. See section 18.4.8.050 on page 4-139.
- **porous pavement exemption from lot coverage in residential zones** – Revise the maximum size of the exempted porous solid surface to be two hundred square feet or five percent of lot coverage, whichever is **less**, rather than whichever is **greater**. See table 18.2.5.030.A on page 2-40. This change is not included in the attached land use ordinance, but will be incorporated into the draft for second reading.
- **building height in commercial zones** – Modified proposed amendment to require a conditional use permit to extend building height from three to four stories (i.e., from 40 feet up to 55 feet) in the commercial zone (C-1) when the building is at least 100 feet from residential zones. See Table 18.2.6.030 on page 2-53.
- **parapet exemption** – Modified proposed amendment to allow parapets to extend up to five feet, rather than three feet, above the maximum building height in commercial and employment zones (C-1, C-1-D, E-1). See Table 18.2.6.030 on page 2-53.
- **building separation requirement in large-scale commercial development** – Deleted the existing requirement. See section 18.4.2.040.D on page 4-19.
- **residential buildings in mixed-use development** – Deleted proposed amendment to clarify existing language. Return to the Planning Commission for further review. See sections 18.2.3.130.B.1 on page 2-21 and 18.3.13.010.C.1 on page 3-181.
- **conditional use permit criteria** – Deleted proposed new criteria. See 18.5.4.050.A.3 on page 5-45.

In addition, staff made several changes to the attached land use ordinance to address internal comments including the following.



- A reference to the violations, complaints, and penalties sections was added to the section on prohibited uses in 18.2.2.030.D on page 2-7.
- A clarification regarding on-street parking spaces required as part of a subdivision was added to the on-street parking credit section in 18.4.3.060.A.3.e on page 4-50.
- The definition of multi-family dwelling on page 6-11 was edited for consistency with the single-family definition and site design review requirement for two or more dwelling units on a lot. Previously, the definition referenced three or more dwelling units on one lot and this was changed to two or more dwelling units on one lot. This change does not impact the application of land use requirements or permits.

Staff also created location maps for the special districts and overlays and these were added to 18.3 and 18.4. The maps are taken from adopted Comprehensive Plan maps, and do not change any boundaries or regulatory frameworks. The newly inserted maps include the following.

- Croman Mill District, page 3-6
- Health Care Services District, page 3-54
- North Mountain Neighborhood District, page 3-60
- Southern Oregon University District, page 3-98
- Airport Overlay, page 3-100
- Freeway Overlay, page 3-104
- Performance Standards Option Overlay, page 3-107
- Pedestrian Places Overlay, page 3-166
- Residential Overlay 3-182
- Historic District Overlay 4-24

The focus group that met to review the format of the attached land use ordinance on August 18, 2014 made several suggestions that were incorporated into the attached draft land use ordinance.

- A master table of contents was added at the beginning of the document.
- The dashes were eliminated in the numbering system.
- The single-family zone description in table 18.2.1.020 on page 2-4 and table 18.2.1.040 on page 2-5 was expanded to include the different types of R-1 zones (i.e., R-1-10, R-1-7.5, R-1-5).
- The word “voluntarily” was added to section 18.5.1.060.c.6.b page 5-15 to clarify that an applicant has the choice to waive his or her right to a final decision being made with 120 days of filing a complete application. This is consistent with state law.

PROCEDURE:

Oregon Statewide Planning Goal 2 – Land Use Planning, as well as Chapter 197 of the Oregon Revised Statutes, requires a land use planning process and policy framework as a basis for all decision and actions related to the use of land. Specifically, plans and implementation measures such as land use ordinances and development standards are permitted measures for carrying out acknowledged Comprehensive Plans.

The adoption of the revised land use ordinance is a legislative amendment which is defined in AMC 18.08.345 as “*An amendment to the text of the land use ordinance or the comprehensive plan or an amendment of the zoning map, comprehensive plan maps or other official maps including the street*”



dedication map described in section 18.82.050, for land involving numerous parcels under diverse ownerships.”

AMC 18.108.170 allows for legislative amendments “*in order to conform with the comprehensive plan or to meet other changes in circumstances or conditions.*” The Planning Commission is required to hold a public hearing and make a recommendation to the City Council. The Council is also required to hold a public hearing and makes the final decision.

COUNCIL GOALS SUPPORTED:

Goal 2. Promote effective citizen communication and engagement.

Goal 13. Develop and support land use and transportation policies to achieve sustainable development.

13.1 Create incentives and ordinances for energy-efficient buildings.

13.2 Develop infill and compact urban form policies.

13.3 Support alternative transportation choices.

FISCAL IMPLICATIONS:

N/A

STAFF RECOMMENDATION AND REQUESTED ACTION:

Staff recommends approval of the first reading of the ordinance replacing Title 18 Land Use of the AMC with a restated and revised unified land use ordinance and moving the ordinance to second reading.

SUGGESTED MOTION:

I move to approve first reading of an ordinance titled, “An ordinance of the City of Ashland repealing Ordinance No. 2052 and replacing in its entirety existing Title 18 Land Use of the Ashland Municipal Code with a restated and revised unified land use ordinance” and move the ordinance to second reading.

ATTACHMENTS:

1. An ordinance of the City of Ashland repealing Ordinance No. 2052 and replacing in its entirety existing Title 18 Land Use of the Ashland Municipal Code with a restated and revised unified land use ordinance
2. [Exhibit A – City of Ashland Land Use Ordinance](#)



ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF ASHLAND REPEALING
ORDINANCE NO. 2052 AND REPLACING IN ITS ENTIRETY EXISTING
TITLE 18 LAND USE OF THE ASHLAND MUNICIPAL CODE WITH A
RESTATED AND REVISED UNIFIED LAND USE ORDINANCE**

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 above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

WHEREAS, Oregon Statewide Planning Goal 2 – Land Use Planning and Chapter 197 of the Oregon Revised Statutes require a land use planning process and policy framework as a basis for all decision and actions related to the use of land, and allow land use ordinances as an implementation measure to control land uses, development, and construction as measures for carrying out the Comprehensive Plan; and

WHEREAS, AMC 18.108.170 allows amendments to the land use ordinance to conform to with the comprehensive plan or to meet other changes in circumstances and conditions; and

WHEREAS, the Unified Land Use Ordinance is a reformatted version of Title 18 which combines the existing land use ordinance, site design and use standards, and street standards into a reformatted and amended document with improved organization, wording, formatting and graphics; and

WHEREAS, the Unified Land Use Ordinance includes amendments to the existing Title 18 which are detailed in the table of land use ordinance and amendments and are intended to address recommendations of the 2006 Land Use Ordinance Review, the planning application procedure evaluation and green development evaluations; to improve standards and procedures; to standardize chapters; and to address inconsistencies and clarify wording; and

WHEREAS, the City held a series of informal public meetings over the course of the project and prior to the public hearings to review and discuss the reformatted document and ordinance amendments including 22 Planning Commission meetings, nine advisory commission meetings, two focus group meetings, and an open house; and

WHEREAS, the Planning Commission of the City of Ashland conducted a duly advertised public hearing on the amendments to Title 18 Land Use of the Ashland Municipal Code on July 22, 2014, and following deliberations, recommended approval of the amendments by a unanimous vote; and

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the above-referenced amendments on August 19, 2014 and December 2, 2014, and 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 public health, safety, and welfare of existing and future residents of the City, it is necessary to revise the Ashland Land Use Ordinance in the manner proposed, that an adequate factual base exists for the amendments, that 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. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. Ordinance No. 2052 is repealed.

SECTION 3. The document entitled “City of Ashland Land Use Ordinance,” is attached hereto as Exhibit A is hereby adopted, replacing in its entirety the existing Title 18 Land Use of the Ashland Municipal Code.

SECTION 4. 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 5. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions, and text descriptions of amendments (i.e. Sections 1-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

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

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2014.

John Stromberg, Mayor

Reviewed as to form:

David Lohman, City Attorney