

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION
STUDY SESSION
NOVEMBER 24, 2015
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street

- II. **ANNOUNCEMENTS/AD-HOC COMMITTEE UPDATES**
 - December Study Session has been cancelled.

- III. **PUBLIC FORUM**

- IV. **DISCUSSION ITEMS**
 - A. Development Standards for Wildfire Lands Ordinance Amendments.

 - B. Review and Approve Planning Commission Recommendation on Marijuana Cultivation and Businesses Ordinance.

- V. **ADJOURNMENT**

**CITY OF
ASHLAND**



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

Memo

DATE: 11/24/2015

TO: Planning Commission

FROM: Brandon Goldman, Senior Planner

RE: Development Standards for Wildfire Lands ordinance amendments

SUMMARY

General discussion regarding modification of the adopted Wildfire Lands boundary map, and potential amendments to the Development Standards for Wildfire Lands (Chapter 18.3.10.100)

BACKGROUND

Ashland Fire and Rescue originally presented a proposal to the City Council on April 15th, 2014 requesting staff prepare a modification of the Physical and Environmental Constraints Map to expand the boundary of Ashland's designated Wildfire Lands to incorporate the entire City (*attached map*). Such a map amendment is a legislative Land Use action requiring the approval of an ordinance, with public hearings before the Planning Commission and City Council.

The Planning Commission initially discussed the expansion of the Wildfire Lands boundary at a Study Sessions on June 24, 2014 and February 24, 2015. The Tree Commission briefly discussed potential changes on April 9, 2015. At these meetings Ashland Fire and Rescue presented the commission with an evaluation of Wildfire Hazards Zones (WHZ) prepared in February 2014. This report assessed various factors to determine which lands meet the hazard zones criteria set forth in Chapter 629 of the Oregon Administrative Rules. After final compilation of the hazard values, all areas within the city were found to be at or above the threshold for a WHZ designation. It is the recommendation of Ashland Fire & Rescue that all areas within the city limits be declared a WHZ, amending the current Wildfire Lands boundary as set forth in 1992.

The expansion of the Wildfire Lands boundary would have development implications for all properties within the City Limits that due to their inclusion they would become regulated under AMC Chapter 18.3.10.100 [Development Standards for Wildfire Lands].

- A Fire Prevention and Control Plan would be required with applications to partition properties, subdivisions, or to obtain site review approval (commercial or multi-family developments).
- A Fuel Break would be required of all properties obtaining building permits for new construction, either new dwellings or additions to existing dwellings where the lot coverage increase is 200 sq.ft. or greater.
- New or re-roofed structures could not use wooden shingles or other combustible roofing material.

Currently requirements for Fire Prevention and control Plans, and Fuel Breaks, only apply to properties within the existing Wildfire Lands area.



In review of the existing development standards for Wildfire Lands, Ashland Fire and Rescue identified a number of potential changes to the existing code to be considered as part of the legislative amendment process underway. Planning Staff has attempted to present these suggested amendments in the discussion draft presented to the Commission this evening. Throughout the attached discussion draft planning staff has included “discussion point” text boxes to highlight specific areas of the draft that raise issues regarding implementation or consistency issues with existing code provisions elsewhere in the Land Use Ordinance. Proposed code revisions would serve to both clarify the submittal requirements for a Fuel Prevention and Control Plan, as well as establish new requirements for the implementation of required fuel breaks not presently codified within the currently adopted Land Use Ordinance (18.3.10.100 attached).

The additional amendments to the development standards being considered include the following:

- Requiring Fuel Break standards to apply to the entire property, with added requirements within 30’ of any structure.
 - Excluding highly flammable plants from being planted or retained within 30 feet of a structure.
 - Attached is a draft resolution which would establish a list of plants identified as highly flammable
- Establishing size thresholds for when an expansion of an existing building, or new structure, triggers implementation of the general fuel break requirements.
- Establishing a minimum clear distance between tree canopies and structures.
- Establishing a canopy spacing standard for the minimum separation between existing and future tree canopies at maturity.
- Establishing a standard requiring a minimum vertical separation between understory vegetation and the lowest tree limbs within a tree’s drip-line.
- Establishing requirements for the removal of dead or dying vegetation
- Modification of the Flag Drive and parking lot screening standards to stipulate site-obscuring hedges along driveways are fire-resistant.
- Establishing a ministerial process to allow modifications to an approved Fire Control and Prevention and Control Plan, and general fuel break requirements.
- Add definitions to the land use ordinance for terminology introduced within the Wildfire Lands Development Standards.

The discussion draft ordinance was presented to the Ashland Wildfire Mitigation Commission on November 17th, and is to be presented to the Tree Commission on December 3rd, 2015. Members of Wildfire Mitigation Commission expressed interest in convening a joint meeting with the Tree Commission to discuss balancing mitigation of fire risk and the goals of tree preservation and protection. The review of the draft ordinance by these advisory commissions will ultimately inform the Planning Commission and the City Council regarding such wildfire issues and plans for mitigation action.

Upcoming Meetings

The Tree Commission is scheduled to review the draft ordinance on December 3, 2015 to evaluate potential impacts of the draft standards on trees and landscaping.

Public Hearings before the Planning Commission and City Council are expected to occur after the new year.

Attached:

- Draft Amendments to 18.3.10.100 - Development Standards for Wildfire Lands



- Draft Amendments to 18.4.3.080 - Vehicle Area Design
 - Draft Amendments to 18.5.3.060 - Additional Preliminary Flag Lot Partition Plat Criteria
 - Draft Resolution establishing a Fuel Break Prohibited Plant List
 - Currently Adopted 18.3.10.100
-



DISCUSSION DRAFT AMENDMENTS
November 24, 2015

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 hazards on properties, the occupants of properties and the occupants of adjacent properties, as well as 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. 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, Site Design Review or land partition.

2. The Staff Advisor shall forward two copies of the Fire Prevention and Control Plan to the Fire Code Official within three days of the receipt of a completed application. The Fire Code Official shall review the Fire Prevention and Control Plan, and submit a written report to the Staff Advisor no less than 10 days before a scheduled hearing, or notice of decision in the case of a Partition or Site Design Review process through a Type I procedure.. The Fire Code Official's report shall be a part of the record of the Planning Action.

3. The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall include the following items:
 - 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.
 - d. A tree management plan showing the location and diameter at breast height (DBH) of all trees on each lot. The tree management plan shall provide the type and locations of the following:
 - i. Trees to be retained,
 - ii. Trees to be removed,
 - iii. New trees to be planted,

- iv. Areas to be thinned to reduce interlocking tree canopies,
 - v. Heavily forested parcels greater than one acre in size, may show only trees requested for removal upon approval of the Staff Advisor and Fire Code Official.
- g. A vegetation management plan, for shrubs and ground cover, showing the type and location of the following:
- i. Existing vegetation, including shrubs and bushes, to be retained.
 - ii. Dead, dying or severely diseased vegetation to be removed.
 - iii. New vegetation to be planted.
 - iv. Spacing of lower growing shrubs and bushes at expected mature size

Discussion point: Should spacing requirements be limited to newly planted lower growing shrubs, or also applicable to established landscaping?

- h. The location of and information addressing required general fuel break setback areas as described in subsection 18.3.10.100.B.
 - i. A schedule and timetable demonstrating that vegetation identified for removal. An exception to the implementation schedule may be granted by the Fire Code Official.
4. Approval Criteria. The hearing authority, in consultation with the Fire Code Official, shall approve the Fire Prevention and Control Plan when, in addition to demonstrating compliance with the standards required by this chapter, it is found that the wildfire hazards present on the property have been reduced to a reasonable degree, balanced with the need to preserve and/or plant a sufficient number of trees and plants for erosion prevention, wildlife habitat, enhancement of water resources, and aesthetics.
5. The hearing authority in consultation with the Fire Code Official may require, through the imposition of conditions attached to the approval, the following requirements as deemed appropriate for the development of the property.
- a. Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.
 - b. Clearing of sufficient vegetation to reduce fuel load.
 - c. Removal of all dead and dying trees.
 - d. Relocation of proposed structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.
6. Provisions for the maintenance of a required Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the

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

7. 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.

B. Requirements for Construction of All Structures.

1. Applicability. All new structures and additions within wildfire lands that increase lot coverage by 200 square feet or greater, shall have a fuel break covering the full extent of the property as defined below.

Discussion point: What should be the threshold for when the establishment of a fuel break (thinning, removal, replanting) is required?

Ashland Fire and Rescue Staff has suggested that a any increase of 100 square feet in additional floor area, or additional lot coverage (decks, outbuildings) would be preferable to the lot coverage increase threshold as presented above.

Planning Staff Is concerned regarding the additional process and cost associated with plans, plant surveys, planting and irrigation that would be triggered for small projects or internal remodels. As an example, the conversion a portion of a garage into habitable space would typically not impact landscaping, however if the trigger were for increases in habitable floor area then such an internal conversion would trigger fuel break requirements.

2. General Fuel Break Requirements. A fuel break is defined as an area where the overall intensity of wildfire is reduced through fuels control and that is free of dead or dying vegetation, and has primarily fire resistant species sufficiently spaced so that there is no interlocking canopy or ladder fuels of a species or type which would promote the spread of fire. Establishment of a fuel break does not involve stripping the ground of all native vegetation. To reduce fire spread both from and to structures on the property, and to adjoining properties, the establishment and maintenance of a fuel break is required as follows:

- a. All standing dead and dying vegetation shall be removed from the property, except when approved to carry out ecological functions considered beneficial within water resource protection areas.
- b. Existing vegetation which is identified on the City's Fuel Break Prohibited Plant List, with the exception of significant trees as defined in part 18.6, shall be removed within 30 feet of any structure. This setback distance shall be increased by ten feet for each ten percent increase in the average slope of the property over ten percent.

Discussion Point: As initially drafted and presented above this section may conflict with the purpose of existing code requirements for properties that are zoned multifamily, commercial, employment, or subdivisions that have approved tree protection plans in place. Specifically, tree preservation and protection code standards require a Tree Removal Permits for removal of healthy trees greater than 6" in diameter at breast height.

Planning Staff is concerned that requiring removal of established highly flammable trees (including trees that are prevalent throughout the community – Pine, Cedar, Spruce) within 30' of any structure could potentially render properties devoid of existing mature trees.

Ashland Fire & Rescue Staff has clarified that within 30' of a structure, flammable trees and shrubs that can meet the canopy spacing and ladder fuel clearance requirements set forth within this draft ordinance could be retained. As such the preceding section would need to be modified or eliminated.

- c. Newly planted vegetation within 30 feet of any structure shall not include species listed on the City's Fuel Break Prohibited 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.
- d. Limbs of non-fire resistant trees shall be maintained to provide a clearance from structures as follows:
 - i. 10 feet above the roof.
 - ii. 10 feet from the chimney.
 - iii. 10 feet from the furthest extension of the structure.
 - iv. Existing conifers, evergreens, and other highly flammable trees unable to meet the requirements of 18.3.10.100.B.2i-iii, without compromising the tree health, shall be pruned up to a minimum eight feet or 1/3 of the tree height, whichever is less

Discussion point: Ashland Fire and Rescue suggests that the clearance requirements from structures stated above apply to all trees, including established fire-resistant varieties (ie Oak, Maple). Planning Staff has found example code provisions requiring tree limbs be maintained at least 10-15' from chimneys, but have yet to find examples that require such clearance from all extensions of a structure (including decks and outbuildings).

- e. The distance between the top of the understory vegetation and the lowest tree limbs shall be at least three times the height of vegetation below the tree. This applies to all vegetation wholly or partially within the drip line of the tree.

Discussion point: This is a new standard not presently codified for Wildfire Lands. This “3 times the height” standard may result in significant pruning of both existing trees and shrubs, or removal in the event this standard could not be met when vegetation is within the drip line of a tree.

- f. Canopy spacing of the outermost limbs of non-fire resistant trees as identified on the City’s Fuel Break Prohibited Plant List, shall be separated by at least 10 feet at mature size.

Discussion point: This is a new standard not presently codified for Wildfire Lands. The existing standard (18.3.10100 B3) states that a fuel break area is “free of dead or dying vegetation, and has native fast-burning species sufficiently thinned so that there is no interlocking canopy of this type of vegetation”.

Planning Staff is concerned that application of a minimum 10’ separation between canopies could trigger tree removal to comply with such a standard adding additional process and cost for the applicant. Additionally given small parcel sizes throughout the City such a standard could effectively limit the potential for multiple yard trees.

Ashland Fire & Rescue Staff has clarified that such canopy separation of the outermost limbs does not apply to fire-resistant trees. As an example Oak trees could have interlocking canopies under this new standard, whereas highly flammable trees (such as Pine trees) would either have to meet the 10’ canopy separation standard, or be subject to removal.

- i. Canopy spacing does not apply to significant trees, as defined in part 18.6.
- ii. Groups of trees in immediate proximity to each other may be considered as one tree canopy when approved by the Fire Code Official.

Discussion point

AF&R newly proposed expansions of requirements above :

iii. Canopy spacing requirements will be adjusted to account for slope according to the following:

21-40% Minimum canopy spacing of 20'

+41% Minimum canopy spacing of 30'

iv. Shrubs, existing and newly planted, shall be separated according to the following:

0-20% slope: 2x the mature shrub height

21-40% slope: 4x the mature shrub height

41+% slope: 6x the mature shrub height

Planning Staff has is concerned that such slope corrected provisions for canopy and shrub spacing would further limit landscape design options on single family properties with limited yard areas, and would specifically be problematic in application of existing landscaping requirements on commercial and multifamily properties such as parking lot screening and buffering requirements.

- g. Where necessary for erosion control, slope stability, riparian and wetland preservation and enhancement, perform 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 Fire Code Official.
- h. Fuel breaks 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.
- i. Fuel breaks may include other structures, and shall not limit distance between structures and residences beyond that required by other sections of this ordinance.
- j. Properties greater than one acre in size may limit the fuel break area to lands within 130 feet of any structure consistent with an approved Fire

Prevention and Control Plan, or upon written approval of the Fire Code Official.

Discussion Point:

AF&R newly proposed code requirement:

k. Within three feet of a structure combustible man-made and natural materials are prohibited including but not limited to bark mulch, and accumulation of dry leaves and needles.

Planning Staff has concerns regarding compliance with such a provision on lots with small yards as well as upon commercial properties where landscaping is often located adjacent to the buildings as part of coordinating natural and build elements into an attractive streetscape.

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 non-wood roof covering. All re-roofing of existing structures in the Wildfire Hazard Zone shall be done under approval of a zoning permit. No structure shall be constructed or re-roofed with wooden shingles, wooden shakes, wood-product material or other combustible roofing material. If there is a conflict between this section of the AMC and other codes, the most restrictive shall apply.

Discussion Point: The Building Official is investigating whether alternative roofing materials that have been tested for fire resistance (in addition to Class B non-wood coverings) are permissible under the approved building code.

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 plan shall be complied with prior to bringing combustible materials onto the property.
2. For all other structures, the general fuel break requirements of subsection 18.3.10.100.B, above, shall be complied with before bringing combustible materials onto the property.
3. 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 the Plan shall not be considered fully implemented until the Fire Code Official has given 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 breaks will be conducted prior to i prior to bringing combustible materials onto the property to verify compliance with the fuel reduction standards set forth in subsection 18.3.10.100B.
4. As of November 1, 1994, existing residences in subdivisions developed outside of the Wildfire Lands Zone, but later included due to amendments to the zone boundaries shall be exempt from the requirements of this zone, with the exception of subsection 18.3.10.100.B.5, above. All new residences, and additions to existing structures expanding lot coverage by greater than 100 square feet, shall comply with all standards for new construction in subsection 18.3.10.100.B.
 5. Subdivisions developed outside of the wildfire lands zone prior to November 1, 1994, but later included as part of the zone boundary amendment, shall not be required to prepare or implement Fire Prevention and Control Plans outlined in subsection 18.3.10.100.A.

D. Exceptions and Minor Amendments. Changes to an approved Fire Prevention and Control Plan and General Fuel Break requirements shall comply with the following procedures:

1. The following exceptions are subject to ministerial approval with written concurrence from the Fire Code Official:
 - 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 plants, or planting of new non-fire resistant plants, within thirty (30) feet of a structure.

Discussion Point: In the event the final ordinance restricts any plantings, fire-resistant or otherwise, within three feet of any structure as AF&R has suggested (18.3.10.100 B2" k" above), an additional exemption to allow existing fire-resistant vegetation to be retained within 3' of a structure would be necessary.

- d. A reduction of the requisite fuel break to address observed field conditions including preservation of riparian, wetland, and slope stabilizing vegetation.
- e. A change in the Fire Prevention and Control Plan that results in a tree canopy separation of less than 10 feet between the outermost limbs.

Discussion Point: To address the "slope corrected separation" proposed by AF&R and discussed above (18.3.10.100 B 2 f iii-iv) section D 1 e would have to be modified as followed:

e. A change in the Fire Prevention and Control Plan that results in a tree canopy separation of less than 10 feet or less than the prescribed slope corrected separation between the outermost limbs.

- f. The temporary storage of combustible materials on a property prior to completion of a Fuel Fire Prevention and Control Plan or establishment of a required fuel break.
 - 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.
2. The following minor amendments are subject to approval through a Type I Procedure:
- a. 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.
 - b. A change that includes the removal of native vegetation within a Water Resources Protection Zone.
 - c. A change in the Plan not specifically listed under 18.3.10.100 D1

Additional Ordinance amendments or resolutions

Definition of Fire Code Official (18.6)

Definition of Fire Resistant Landscaping (18.6)

Definition of Fuel Break Prohibited Plant List (18.6)

Amendment to Flag Drive Standards (18.5.3.060)

Amendments to Vehicle Area Design requirements (18.4.3.080)

Amendments to procedures table 18.5.1.010 (exceptions and minor amendments)

Resolution adopting Fuel Break Prohibited Plant List

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.

6. Walls and Hedges

- a. Where a parking facility is adjacent to a street, a decorative masonry wall or **evergreen site-obscuring fire resistant** 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 **evergreen fire resistant** 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.

18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria

N. Both sides of the flag drive have been screened with a site-obscuring fence, wall or ~~evergreen- fire resistant~~ 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.~~

RESOLUTION NO. 2016-

A RESOLUTION ADOPTING THE CITY OF ASHLAND FUEL BREAK PROHIBITED PLANT LIST FOR APPLICATION IN THE WILDFIRE STANDARDS OVERLAY ZONE:

RECITALS:

- A. The Ashland City Council on February __, 2016 adopted Ordinance No. ____, amending development standards within the City of Ashland Wildfire Standards Overlay Zone, which shall be codified as Chapter 18.3.10.100 of the Ashland Municipal Code.
- B. The City of Ashland recognizes the threat that wildfire poses to people, property and infrastructure within our community;
- C. The City of Ashland recognizes establishment of fuel breaks around structures is a vital wildfire mitigation action that will reduce the potential for harmful impacts of wildfire upon properties and the occupants of properties,
- D. The City of Ashland recognizes that specific highly flammable plants can accelerate the spread of wildfire, and may impede fire repression efforts in the event of a wildfire.
- E. The City of Ashland recognizes that the establishment of a Fuel Break Prohibited Plant List will promote landscapes that do not include highly flammable plants in the immediate proximity of structures, which will reduce the risk of the spread of wildfires.

THE CITY OF ASHLAND RESOLVES AS FOLLOWS:

SECTION 1. Pursuant to Section 18.3.10.100 of the Ashland Municipal Code, the City Council of the City of Ashland establishes a Fuel Break Prohibited Plant List as follows:

Fuel Break Prohibited Plant List

The use of the following landscape plants is restricted within the City of Ashland Wildfire Lands overlay area per the general fuel break requirements set forth in Chapter 18.3.10.100 of the Ashland Land Use Ordinance.

Trees

- Acacia (*Acacia sp.*)
- Arborvitae (*Thuja sp.*)
- Cedar (*Cedrus sp.*)
- Cedar/Cypress (*Chamaecyparis sp.*)
- Cypress (*Cupressus sp.*)
- Douglas fir (*Pseudotsuga menziesi*)
- Fir (*Abies sp.*)

Hemlock (*Tsuga sp.*)
Juniper (*Juniperus sp.*)
Pine (*Pinus sp.*)
Sequoia (*Sequoia sp.*)
Spruce (*Picea sp.*)
Yew (*Taxus sp.*)

Shrubs

Blackberry (*Rubus armeniacus*)
Bitterbrush (*Purshia tridentata*)
Juniper (*Juniperus sp.*)
Laurel sumac (*Malosma laurina*)
Manzanita* (*Arctostaphylos sp.*) *except for *Kinnikinnick*
Oregon grape* (*Mahonia aquifolium*) *except for 'Compacta'
Rosemary* (*Rosmarinus sp.*) *except for 'Prostratus'
Sagebrush (*Artemisia sp.*)
Scotch broom (*Cytisus scoparius*)
Scrub oak (*Quercus sp.*)
Wild Lilac (*Ceanothus sp.*)

Grasses and Ground Cover

Pampas grass (*Cortaderia selloana*)

This resolution was duly PASSED and ADOPTED this _____ day of _____, 2016, and takes effect upon signing by the Mayor.

Barbara Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2016.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney

Currently Adopted Land Use Ordinance

18.3.10.100 Development Standards for Wildfire Lands

- A. Requirements for Subdivisions, Performance Standards Developments, or Partitions.
1. 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, or application to partition land where the site contains area designated as Wildfire Hazard.
 2. The Staff Advisor shall forward the Fire Prevention and Control Plan to the Fire Chief within three days of the receipt of a completed application. The Fire Chief shall review the Fire Prevention and Control Plan, and submit a written report to the Staff Advisor no less than seven days before the scheduled hearing. The Fire Chief's report shall be a part of the record of the Planning Action.
 3. The Fire Prevention and Control Plan, prepared at the same scale as the development plans, shall include the following items.
 - a. An analysis of the fire hazards on the site from wildfire, as influenced by existing vegetation and topography.
 - b. A map showing the areas that are to be cleared of dead, dying, or severely diseased vegetation.
 - c. A map of the areas that are to be thinned to reduce the interlocking canopy of trees.
 - d. A tree management plan showing the location of all trees that are to be preserved and removed on each lot. In the case of heavily forested parcels, only trees scheduled for removal shall be shown.
 - e. The areas of primary and secondary fuel breaks that are required to be installed around each structure, as required by 18.3.10.100.B.
 - f. Roads and driveways sufficient for emergency vehicle access and fire suppression activities, including the slope of all roads and driveways within the Wildfire Lands area.
 4. Approval Criteria. The hearing authority shall approve the Fire Prevention and Control Plan when, in addition to the findings required by this chapter, the additional finding is made that the wildfire hazards present on the property have been reduced to a reasonable degree, balanced with the need to preserve and/or plant a sufficient number of trees and plants for erosion prevention, wildlife habitat, and aesthetics.
 5. The hearing authority may require, through the imposition of conditions attached to the approval, the following requirements as deemed appropriate for the development of the property.
 - a. Delineation of areas of heavy vegetation to be thinned and a formal plan for such thinning.
 - b. Clearing of sufficient vegetation to reduce fuel load.
 - c. Removal of all dead and dying trees.

- d. Relocation of structures and roads to reduce the risks of wildfire and improve the chances of successful fire suppression.
 6. The Fire Prevention and Control Plan shall be implemented during the public improvements required of a subdivision or Performance Standards Development, and shall be considered part of the subdivider's obligations for land development. The plan shall be implemented prior to the issuance of any building permit for structures to be located on lots created by partitions and for subdivisions or Performance Standards developments not requiring public improvements. The Fire Chief, or designee, shall inspect and approve the implementation of the Fire Prevention and Control Plan, and the Plan shall not be considered fully implemented until the Fire Chief has given written notice to the Staff Advisor that the plan was completed as approved by the hearing authority.
 7. In subdivisions or Performance Standards Developments, provisions for the maintenance of the Fire Prevention and Control Plan shall be included in the covenants, conditions and restrictions for the development, and the City shall be named as a beneficiary of such covenants, restrictions, and conditions.
 8. On lots created by partitions, the property owner shall be responsible for maintaining the property in accord with the requirements of the Fire Prevention and Control Plan approved by the hearing authority.
- B. Requirements for Construction of All Structures.
1. Applicability. All new construction and any construction expanding the size of an existing structure shall have a fuel break as defined below.
 2. General Fuel Break Requirements. A fuel break is defined as an area that is free of dead or dying vegetation, and has native, fast-burning species sufficiently thinned so that there is no interlocking canopy of this type of vegetation. Where necessary for erosion control or aesthetic purposes, the fuel break may be planted in slow-burning species. Establishment of a fuel break does not involve stripping the ground of all native vegetation. Fuel breaks may include structures, and shall not limit distance between structures and residences beyond that required by other sections of this ordinance.
 3. Primary Fuel Break. A primary fuel break will be installed, maintained and shall extend a minimum of 30 feet, or to the property line, whichever is less, in all directions around structures, excluding fences, on the property. The goal within this area is to remove ground cover that will produce flame lengths in excess of one foot. Such a fuel break shall be increased by ten feet for each ten percent increase in slope over ten percent. Adjacent property owners are encouraged to cooperate on the development of primary fuel breaks.
 4. Secondary Fuel Break. A secondary fuel break will be installed, maintained and shall extend a minimum of 100 feet beyond the primary fuel break where surrounding landscape is owned and under the control of the property owner during construction. The goal of the secondary fuel break is to reduce fuels so that the overall intensity of any wildfire is reduced through fuels control.

5. Roofing. All structures shall be constructed or re-roofed with Class B or better non-wood roof coverings, as determined by the Oregon Structural Specialty Code. All re-roofing of existing structures in the Wildfire Lands area for which at least 50 percent of the roofing area requires re-roofing shall be done under approval of a zoning permit. No structure shall be constructed or re-roofed with wooden shingles, shakes, wood-product material or other combustible roofing material, as defined in the City's building code.
- C. Fuel breaks in areas which are also Erosive or Slope Failure Lands shall be included in the erosion control measures outlined in section 18.3.10.090 Development Standards for Hillside Lands.
- D. Implementation.
1. For land that have been subdivided and required to comply with subsection 18.3.10.100.A.6, above, all requirements of the plan shall be complied with prior to the commencement of construction with combustible materials.
 2. For all other structures, the vegetation control requirements of subsection 18.3.10.100.B, above, shall be complied with before the commencement of construction with combustible materials on the lot.
 3. As of November 1, 1994, existing residences in subdivisions developed outside of the Wildfire Lands Zone, but later included due to amendments to the zone boundaries shall be exempt from the requirements of this zone, with the exception of subsection 18.3.10.100.B.5, above. All new residences shall comply with all standards for new construction in subsection 18.3.10.100.B.
 4. Subdivisions developed outside of the wildfire lands zone prior to November 1, 1994, but later included as part of the zone boundary amendment, shall not be required to prepare or implement Fire Prevention and Control Plans outlined in subsection 18.3.10.100.A.



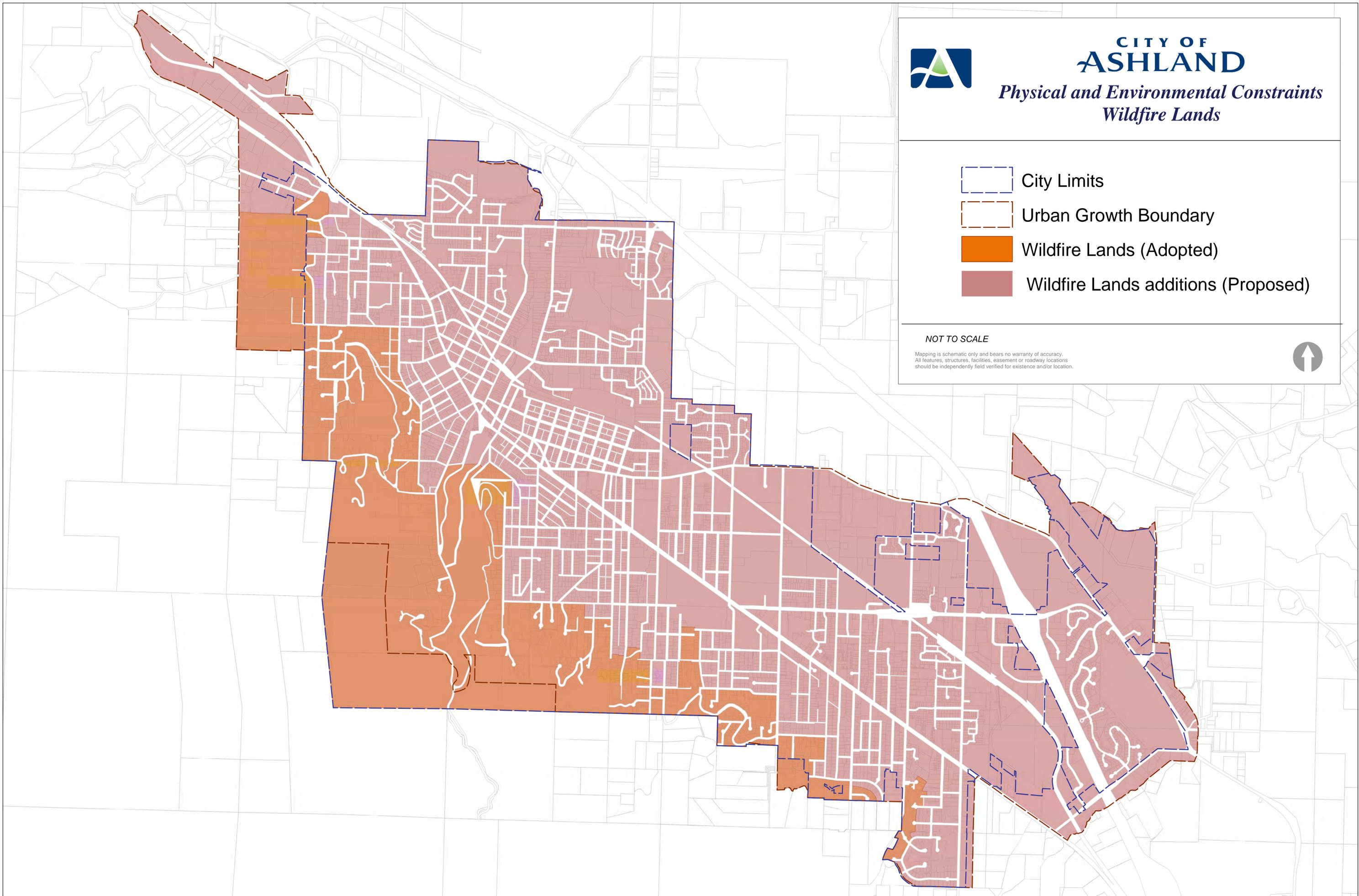
CITY OF ASHLAND

Physical and Environmental Constraints Wildfire Lands

-  City Limits
-  Urban Growth Boundary
-  Wildfire Lands (Adopted)
-  Wildfire Lands additions (Proposed)

NOT TO SCALE

Mapping is schematic only and bears no warranty of accuracy.
All features, structures, facilities, easement or roadway locations
should be independently field verified for existence and/or location.



Planning Commission Report

DATE: November 24, 2015
TO: Ashland City Council
FROM: Ashland Planning Commission
RE: Planning Commission Recommendation
Ordinance Amendments for Homegrown Marijuana and Marijuana-Related
Businesses (PL#2015-01677)

Summary

The Planning Commission recommends approval of the proposed amendments to the land use ordinance for homegrown marijuana and marijuana-related businesses (PL# 2015-01677). The Commission held a public hearing and deliberations on the proposed amendments on October 27, 2015. Prior to the public hearing, the Commission held study sessions on June 23 and August 25.

Recommendation

The Commission understands that Ashland voters supported Measure 91 which allows households with one or more persons 21 years or older to grow, store, and process limited amounts of marijuana and provides for a variety of marijuana-related businesses through a state licensing system. At the same time, the Commission recognizes the legalization of marijuana is a new practice that will require a period of adjustment in the community both functionally and culturally. Specifically, the practical aspects of growing (homegrown and commercial), selling, testing, processing, and distributing marijuana and marijuana products may have anticipated and unanticipated impacts on the health, safety, and welfare of existing and future residents and neighborhoods.

For the above mentioned reasons, the Commission believes there is a need to balance the rights of individuals to grow, access, process, and sell marijuana and marijuana products with the enjoyment, peace, safety, and general welfare of residential neighborhoods and the overall function of city facilities such as the transportation system. Therefore, the Commission recommends amendments to the land use ordinance to include standards for the location, manner of operation, access to, and potential nuisance issues for homegrown marijuana and marijuana-related businesses. In addition, the Commission recommends initially taking a somewhat conservative approach in the regulations with the possibility of relaxing the standards in the future as the impacts of growing, selling, testing, producing, and distributing marijuana and

marijuana products are better understood. A summary of the proposed land use ordinance amendments and the Commission's discussions and deliberations follows.

Homegrown Marijuana

Homegrown marijuana is defined in the proposed amendments as growing and harvesting marijuana for personal consumption by a person 21 years or older, whether for medical or non-medical purposes, or for a medical marijuana card holder.

The draft ordinance amendments allow homegrown marijuana cultivation as a special use in the residential zones including the North Mountain Neighborhood, the Health Care Services District, and the C-1, E-1, M-1, and CM zones. Homegrown marijuana is allowed in the non-residential zones because dwelling units are permitted in some of these areas as part of a mixed-use development. In addition, there are examples of pre-existing nonconforming single-family residences in the C-1, E-1, and M-1 zones (e.g., the homes on the south side of A St.).

Staff reported routine odor complaints due to individuals growing marijuana outdoors in private yard space. Neighbor complaints include not being able to enjoy backyards and open windows in the summer and early fall because of the strong odor produced by marijuana grown on adjacent property. In addition, complaints involved impacts from light, glare, and noise from mechanical equipment (e.g., lights systems, fans) related to indoor cultivation and odor from processing (e.g., drying) plants in garages and accessory structures. Though not numerous, the more extreme cases involved outdoor grows including a large number of plants for multiple medical marijuana card holders and using garages and/or portions of the home for indoor cultivation.

The Planning Commission discussed a variety of issues during the development of the standards for homegrown marijuana. The Commission agrees that the primary focus of the proposed standards is to balance the allowances in state law for the personal growing of recreational and medical marijuana with the nuisance and safety impacts to residential neighborhoods.

The Commission believes it is important to allow individuals to grow plants outside to take advantage of natural light and precipitation. In converse, the Commission feels forcing individuals to grow plants inside can result in increased energy and water use which is inconsistent with Comprehensive Plan policies regarding conservation of resources. At the same time, the Commission discussed the fact that growing marijuana, whether outdoors or indoors, is an agricultural use and that agricultural uses in residential neighborhoods need to be at a scale and intensity consistent with residential living.

The Commission discussed the importance of maintaining residential zones in those uses that are typically seen and associated with residential neighborhoods. In particular, there is concern about significant parts of residential structures potentially being used for the indoor cultivation of marijuana and the potential impacts to neighboring residences and neighborhoods in general. As



a result, a standard is included that prohibits a dwelling unit from primarily being used as a place to cultivate marijuana and prohibits vacant or uninhabited units for marijuana cultivation.

The Commission found the primary land use tool for controlling the nuisance impacts is to limit the location and size of outdoor growing. As a result, a 10-foot setback from property lines and 20-foot setback from adjacent residences is included as well as requiring the grow area to be located closer to the resident grower's dwelling unit. The Commission considered increasing the setbacks but after a review of newer subdivisions in the R-1 zone decided larger setbacks would eliminate the possibility of outdoor growing in those areas with smaller lot sizes. The Commission recognized that the proposed setbacks would eliminate outdoor growing in developments with the smallest private yard areas (e.g., attached townhome development).

In terms of size of outdoor grow area, the number of marijuana plants is limited to four plants which corresponds to the number of plants allowed under state law for recreational marijuana. The proposed amendments include up to 50 square feet for the cultivation area and up to 10 feet in height for the marijuana plants. The Commission feels the ability to grow four plants outdoors was more than adequate for personal use. Because the marijuana plant is vigorous and can be large in diameter and height, the Commission feels it is important to include limitations on the scale of the outdoor grow area for compatibility with the scale of a residential setting.

The marijuana plant is known for being particularly odiferous. The Commission acknowledges that regulating the location and size of outdoor grows will not eliminate the odor. However, the Commission believes placing limitations on the outdoor grow area size and requiring thoughtful placement of the grow area will likely reduce the impacts to neighbors and the surrounding neighborhood.

Marijuana-Related Businesses

Marijuana-related businesses are those enterprises allowed by state law and licensed by the State including production (growing), processing, retail sales, testing (laboratories), and wholesale storage and distribution. The state laws and rules for recreational and medical marijuana operations are overlapping, administered by two separate agencies, and at times somewhat confusing. Ultimately the Planning Commission believes the impacts of marijuana-related businesses are likely similar whether the business is involved in recreational or medical marijuana.

There is limited information on the potential impacts of marijuana-related businesses because the legal marijuana industry is relatively new. For this reason, the Commission recommends initially taking a somewhat conservative approach in the land use standards for growing, processing, selling, testing, and storage and distribution of marijuana and marijuana products. The Commission believes the standards could be reviewed and possibly relaxed in the future when the impacts of marijuana-related businesses are more fully understood.



The primary topics of Planning Commission discussion were the appropriate zones for marijuana-related businesses, the shift from medical marijuana dispensaries to recreational and medical marijuana retail sales, and the appropriateness of using employment lands for commercial growing operations.

The draft ordinance amendments allow marijuana retail sales as a special and conditional use in the Retail Commercial (C-1) and Employment (E-1) zones and allow growing, processing, testing, and wholesale operations as special permitted uses in the E-1, Industrial (M-1), and Croman Mill (CM) zones.

The Commission feels it is important to preserve the C-1 zone for retail commercial uses (e.g., stores, restaurants, offices). Therefore, the growing, processing, testing, and wholesale storage and distribution uses are limited to the E-1, M-1, and CM zones. This approach is comparable to the existing land uses allowed in the E-1, M-1, and CM zones such as manufacturing, warehouses, and distribution. The exception is marijuana growing. Currently, the land use ordinance does not permit agricultural uses in the E-1, M-1, or CM zones.

The current regulations for location and operation of medical marijuana dispensaries are carried forward to apply to all marijuana retail sales outlets. Marijuana retail sales as a use is broadened to include recreational as well as medical marijuana sales.

Marijuana retail sales establishments that are located on a boulevard continue to be a special use that must meet the special use standards in 18.2.190.B. If the marijuana retail sales establishment will not be located on a boulevard but is 200 feet or more from a residential zone, marijuana retail sales continue to require a conditional use permit. Marijuana retail sales also remain prohibited in the Downtown Design Standards Overlay. The attached dispensary map shows the locations of the approved medical marijuana dispensaries and eligible areas for future marijuana retail sales.

Several days before the Planning Commission public hearing, the State adopted rules for recreational marijuana and the licensing of marijuana business. The new rules prohibit any of the recreational marijuana-related businesses from being in the same location or address as medical marijuana grow sites, medical marijuana processing sites, medical marijuana dispensaries, and liquor stores (OAR 845-025-1230). The Commission acknowledged that this rule would prohibit medical and recreational sales from being in the same location.

The Commission recommends that a spacing standard of 1,000 feet between marijuana retail sales establishments be included in the land use standards. While the City has not received complaints regarding the four medical marijuana dispensaries in Ashland that were established in the past year, the Commission feels the potential impacts from retail sales, whether medical or



recreational marijuana, are likely similar and still somewhat unknown. For this reason, the Commission had concerns about the cumulative effect of adjacent marijuana retail sales outlets on a surrounding neighborhood. In particular, the Commission believes the issues identified in the development of the land use standards for marijuana dispensary in 2014 continue to be applicable.

The Commission believes marijuana retail sales are most appropriately located on streets where other high volume uses are located to address potential security and traffic impacts. The Commission believes that locating marijuana retail sales on the larger capacity streets with continuous traffic provides additional security and natural surveillance. In addition, the potential vehicle trips generated by marijuana retail sales can then be directed to these higher order streets. The projected number of vehicle and the trips generated by marijuana retail sales is not available.

The Commission recommends that growing, processing, and laboratory operations be required to locate 200 feet or more from residential zones. Because the legal marijuana industry is new, there is limited information available about the impacts from marijuana-related businesses and whether the growing, processing, and testing uses create different or additional impacts (e.g., noise, odor, energy use, water use) compared to other general manufacturing uses.

The final topic of discussion was allowing commercial growing operations in Ashland's employment lands. The Commission recommends a square footage limitation of 5,000 square feet of gross floor area for indoor commercial growing. The Commission feels this allows a reasonable size for commercial marijuana production while at the same time preserving employment lands for a variety of uses and uses with higher employment densities. The limitation is consistent with the State's rules for recreational marijuana which include a 5,000 to 10,000 square foot maximum on indoor commercial grow sizes.

The Commission feels that commercial grow sites are most appropriate in agriculturally zoned lands and questions using limited supplies of employment lands within the city limits for what appears to be a land intensive use with low employment generation. In addition, the Commission expressed concern regarding the electricity and water use of indoor grow operations. According to the City's 2007 Economic Opportunity Analysis (EOA), the employment land supply is projected to be sufficient through 2027 but begin to experience some deficits in the 2028-2057 time period. The average employment densities in Ashland are 17.2 employees per acre while reports from other states describe 100,000 square foot (2.3 acres) indoor grow operations with a few employees.



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 18.2.2, 18.2.3, 18.2.5, 18.3.2, 18.3.3, 18.3.5 AND 18.6.1 OF THE ASHLAND LAND USE ORDINANCE RELATING TO HOMEGROWN MARIJUANA CULTIVATION AND MARIJUANA-RELATED BUSINESSES INCLUDING PRODUCTION, PROCESSING, RETAIL SALES, TESTING, AND WHOLESALE.

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

WHEREAS, Oregon voters passed Measure 91, known as the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act, in November 2014 which allows households with one or more persons 21 years age and older to have up to four marijuana plants at a household and process, keep, and store limited amounts of homegrown marijuana and homemade marijuana products. In addition, Measure 91 requires the Oregon Liquor Control Commission to develop and implement a licensing process for commercial marijuana facilities including processing, production, wholesale, and retail; and

WHEREAS, the Legislature passed four laws relating to medical and marijuana in the 2015 legislative session including House Bill 2400 amending the Oregon Medical Marijuana Act (OMMA) and Measure 91; and

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, under Oregon law, local governments may regulate the operation and location of certain types of uses within their jurisdiction limits except when such action has been specifically preempted by state statute; and

WHEREAS, Measure 91 allows cities and counties to adopt reasonable time, place, and manner regulations of the nuisance aspects of marijuana facilities and specifies that the authority granted

to cities and counties by Measure 91 “is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of the state;” and

WHEREAS, House Bill 3400 provides that cities may impose reasonable regulations including hours of operation, manner of operation, public’s access to, and location on five types of recreational licenses and medical marijuana grow sites, processing sites, and dispensaries; and

WHEREAS, the City Council determined it is necessary to establish rules and regulations ensuring that both safe access to marijuana and land use compatibility are maintained; and

WHEREAS, the City Council determined there has been an increase in marijuana cultivation, specifically in residential neighborhoods, because of an increase in medical marijuana grows allowed by state law; and

WHEREAS, the City Council finds that the increase in marijuana cultivation resulted in an increase in code compliance complaints regarding odor related to outdoor marijuana cultivation as well as adverse impacts related to noise from mechanical equipment and lighting related to indoor marijuana cultivation in accessory structures such as greenhouses; and

WHEREAS, the City Council determined it is necessary to establish rules and regulations for marijuana cultivation and commercial marijuana facilities, while preserving the peace, safety and general welfare of residential neighborhoods and neighboring properties; and

WHEREAS, the Planning Commission of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on October 27, 2015; and

WHEREAS, the City Council of the City of Ashland conducted a duly advertised public hearing on the amendments to the Ashland Municipal Code and Land Use Ordinances on December 1, 2015; 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 18.2.2 [Base Zones and Allowed Uses] of the Ashland Land Use Ordinance is hereby amended as follows:

18.2.2.030 Allowed Uses

- A. Uses Allowed in Base Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to approval of a conditional use permit. Where Table 18.2.2.030 does not list a specific use and chapter 18.6 does not define the use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of section 18.1.5.040. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. For uses allowed in special districts CM, HC, NM, and SOU, and for regulations applying to the City's overlays zones, refer to part 18.3.
- B. Permitted Uses and Uses Permitted Subject to Special Use Standards.** Uses listed as "Permitted (P)" are allowed. Uses listed as "Permitted Subject to Special Use Standards (S)" are allowed, provided they conform to chapter 18.2.3 Special Use Standards. All uses are subject to the development standards of zone in which they are located, any applicable overlay zone(s), and the review procedures of part 18.5. See section 18.5.1.020.
- C. Conditional Uses.** Uses listed as "Conditional Use Permit Required (CU)" are allowed subject to the requirements of chapter 18.5.4.
- D. Prohibited Uses.** Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use following the procedures of section 18.1.5.040 are prohibited. Prohibited uses are subject to the violations, complaints, and penalties sections in 18-1.6.080, 18-1.6.090, and 18-1.6.100.
- E. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2, additional land use standards or use restrictions apply within overlay zones. An overlay zone may also provide for exceptions to some standards of the underlying zone. For regulations applying to the City's overlays zones, please refer to part 18.3.
- F. Accessory Uses.** Uses identified as "Permitted (P)" are permitted as primary uses and as accessory uses. For information on other uses that are customarily allowed as accessory, please refer to the description of the land use categories in part 18.6 Definitions.
- G. Mixed-Use.** Uses allowed in a zone individually are also allowed in combination with one another, in the same structure or on the same site, provided all applicable development standards and building code requirements are met.
- H. Temporary Uses.** Temporary uses require a Conditional Use Permit under chapter 18.5.4; except as follows:
1. **Short-Term Events.** The Staff Advisor may approve through Ministerial review short-term temporary uses occurring once in a calendar year and lasting not more than 72 hours including set up and take down. Activities such as races, parades, and festivals that occur on public property (e.g., street right-of-way, parks, sidewalks, or other public grounds) require a Special Event Permit pursuant to AMC 13.03.
 2. **Garage Sales.** Garage sales shall have a duration of not more than two days and shall not occur more than twice within any 365-day period. Such activity shall not be accompanied by any off-premises advertisement. For the purpose of this ordinance, garage sales meeting the requirements of this subsection shall not be considered a commercial activity.

3. Temporary Buildings. Temporary occupancy of a manufactured housing unit or similar structure may be permitted for a period not to exceed 90 calendar days upon the granting of a permit by the Building Official. Such occupancy may only be allowed in conjunction with construction on the site. Said permit shall not be renewable within a six-month period beginning at the first date of issuance, except with approval of the Staff Advisor.

I. **Disclaimer.** Property owners are responsible for verifying whether a proposed use or development meets the applicable standards of this ordinance.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
A. Agricultural Uses¹										
Agriculture and Farm Use , except <u>Keeping of Bees, Livestock and Micro-Livestock, and Marijuana Cultivation and Production</u>	P	P	P	P	P	P	N	N	N	Animal sales, feed yards, keeping of swine, commercial compost, or similar uses not allowed
Keeping of Bees	S	S	S	S	S	S	S	N	N	See Keeping of Livestock and Bees standards in Sec. 18.2.3.160
Keeping of Livestock	S	N	N	N	S	S	N	N	N	
Keeping of Micro-Livestock	S	S	S	S	S	S	N	N	N	
<u>Marijuana Cultivation, Homegrown</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Sec. 18.2.3.190</u> <u>See General Industrial, Marijuana Production</u>						
B. Residential Uses										
Single-Family Dwelling	P	P	P	P	P	P	S	S	N	See Single-Family standards in Sec. 18.2.5.090 Sec. 18.2.3.130 for C-1 zone and E-1 zone Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120 and 18.2.5.070
Accessory Residential Unit	S	S	S	S	S	N	N	N	N	Sec. 18.2.3.040
Duplex Dwelling	S	P	P	P	N	N	S	S	N	Sec. 18.2.3.110 Duplex Dwelling
Manufactured Home on Individual Lot	S	S	S	S	N	N	N	N	N	Sec. 18.2.3.170 and not allowed in Historic District Overlay
Manufactured Housing Development	N	S	CU+S	N	N	N	N	N	N	Sec. 18.2.3.180
Multifamily Dwelling	N	P	P	P	N	N	S	S	N	Sec. 18.2.3.130 for C-1 zone and E-1 zone Dwellings and additions in Historic District Overlay, see Sec. 18.2.3.120

¹ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
										and 18.2.5.070
B. Residential Uses² <i>(continued)</i>										
Rental Dwelling Unit Conversion to For-Purchase Housing	N	N	S	S	N	N	N	N	N	Sec. 18.2.3.200
Home Occupation	S	S	S	S	S	S	S	S	N	Sec. 18.2.3.150
C. Group Living										
Nursing Homes, Convalescent Homes	CU	CU	CU	CU	CU	CU	N	N	N	See chapter 18.3.3 Health Care Services
Residential Care Home	P	P	P	P	P	P	N	N	N	Subject to State licensing requirements
Residential Care Facility	CU	P	P	P	CU	CU	N	N	N	Subject to State licensing requirements
Room and Boarding Facility	N	P	P	P	N	N	N	N	N	
D. Public and Institutional Uses										
Airport										See chapter 18.3.7 Airport Overlay
Cemetery, Mausoleum, Columbarium	N	N	N	N	CU	N	N	N	N	
Child Care Facility	CU	CU	CU	CU	CU	CU	P	P	P	Family Child Care Home exempt from planning application procedure pursuant to ORS 329A.440, see part 18.6 for definition Subject to State licensing requirements
Club Lodge, Fraternal Organization	CU	CU	CU	CU	CU	CU	P	CU	CU	
Community Service, includes Governmental Offices and Emergency Services (e.g., Police, Fire); excluding Outdoor Storage	CU	CU	N	N	CU	CU	P	P	P	
Electrical Substation	N	N	N	N	N	N	CU	CU	P	
Hospitals	CU	CU	CU	CU	CU	N	N	N	N	See chapter 18.3.3 Health Care Services

² KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
D. Public and Institutional Uses <i>(continued)</i> ³										
Governmental Offices and Emergency Services (e.g., Police, Fire); excluding Outdoor Storage	CU	CU	N	N	CU	CU	P	P	P	
Mortuary, Crematorium	N	N	N	N	CU	N	P	P	P	
Public Park, Open Space, and Recreational Facility, including playgrounds, trails, nature preserves, athletic fields, courts, swim pools, similar uses	P	P	P	P	P	P	N	N	N	
Public Parking Facility	N	N	N	N	N	N	P	N	N	
Public Works/Utilities Storage Yard; includes vehicle and equipment, maintenance, repair	N	N	N	N	N	N	N	P	P	
Recycling Depot	N	N	N	N	N	N	N	P	P	Not allowed within 200 ft of a residential zone
Religious Institution, Houses of Worship	CU	CU	CU	CU	CU	CU	CU	CU	CU	
School, Private (Kindergarten and up)	CU	CU	CU	CU	CU	CU	N	N	N	
School, Public (Kindergarten and up)	P	P	P	P	P	CU	N	N	N	
School, Private College/Trade/Technical School	N	N	N	N	N	N	N	CU	P	
Utility and Service Building, Yard and Structure, Public and Quasi-Public, excluding underground utilities and electrical substations	CU	CU	N	N	CU	CU	P	P	P	Yards not allowed in the C-1 zone
Wireless Communication Facility	CU	CU	CU	CU	CU	CU	<u>P</u> -or CU	<u>P</u> -or CU	<u>P</u> -or CU	Sec.18.4.10
E. Commercial Uses										
Amusement/Entertainment, includes theater, concert hall, bowling alley, miniature golf, arcade; excluding drive-up uses	N	N	N	N	N	N	P	CU	P	
Automotive and Truck Repair, or Service; includes fueling station, car wash, tire sales and repair/replacement, painting, and other	N	N	N	N	N	N	S or CU	S or CU	P	Sec. 18.2.3.050 In C-1 zone, fuel sales and service

³ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
repair for automobiles, motorcycles, aircraft, boats, RVs, trucks, etc.										limited to Freeway Overlay, see chapter 18.3.8 In E-1 zone, fuel sales requires CU permit
E. Commercial Uses (continued) ⁴										
Automotive Sales and Rental, except within the Historic Interest Area; includes motorcycles, boats, RVs, and trucks	N	N	N	N	N	N	CU	CU	P	Except not allowed within Historic District Overlay
Bakery, except as classified as Food Processing	N	N	N	N	N	N	P	P	P	
Commercial Laundry, Cleaning, and Dyeing Establishment	N	N	N	N	N	N	S	S	P	Sec. 18.2.3.080
Commercial Recreation, includes country club, golf course, swimming club, and tennis club; excluding intensive uses such as driving range, race track, or amusement park	CU	CU	N	N	CU	CU	N	N	N	
Commercial Retail Sales and Services, except Outdoor Sales and Services	N	N	CU+S	N	N	N	P	S	S	In R-2 zone, uses limited to personal and professional services, except see Sec. 18.2.3.210 for retail uses allowed in Railroad Historic District In E-1 zone, Retail limited to 20,000 sq ft of gross leasable floor space per lot. In M-1 zone, uses limited to serving persons working in zone <u>See Marijuana Retail Sales</u>
Drive-Up Use	N	N	N	N	N	N	S	N		Per Sec. 18.2.3.100, Drive-Up uses are limited to area east of Ashland St at intersection of Ashland St/Siskiyou Blvd
Hostel	N	N	CU	CU	N	N	CU*	N	N	*In C-1 zone, requires annual Type I review for at least the first three years, after which time the Planning Commission may approve a permanent facility through the Type II procedure

⁴ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
E. Commercial Uses (continued)⁵										
Hotel (See also Hostel and Traveler's Accommodation)	N	N	N	N	N	N	CU	CU	P	
Kennel (See also Veterinary Clinic)	N	N	N	N	N	N	S	S	CU	No animals kept outside within 200 feet of a residential zone
Limited Retail Uses in Railroad Historic District	N	CU	CU	CU	N	N	N	N	N	Sec. 18.2.2.210 for Retail Uses Allowed in Railroad Historic District
Lumber Yard and Similar Sales of Building or Contracting Supplies, or Heavy Equipment	N	N	N	N	N	N	N	CU	P	
Medical Marijuana Dispensary Retail Sales, includes sale of medical and recreational marijuana	N	N	N	N	N	N	S or CU	S or CU	S	Sec. 18.2.3.190 Per Sec. 18.2.3.190, marijuana retail sales are limited to the C-1 and E-1 zones and located on a boulevard or 200 feet or more from any residential zone, See Sec 18.2.3.190
Nightclub, Bar	N	N	N	N	N	N	S	CU	P	Not allowed within the Historic District Overlay unless located in C-1-D
Office (See also Commercial Services)	N	N	CU	CU	N	N	P	P	P	
Outdoor Storage of Commodities or Equipment associated with an allowed use	N	N	N	N	N	N	CU	CU	P	
Plant Nursery, Wholesale, except Marijuana Cultivation and Production	N	N	CU	CU	N	N	N	N	N	
Self-Service Storage, Commercial (Mini-Warehouse)	N	N	N	N	N	N	N	CU	P	
Traveler's Accommodation (See also Hostels and Hotels)	N	N	CU+S	CU+S	N	N	N	N	N	Sec. 18.2.3.220
Veterinary Clinic	N	N	N	N	N	N	P	P	P	
F. Industrial and Employment Uses										
Cabinet, Carpentry, and Machine Shop, and related Sales, Services, and Repairs	N	N	N	N	N	N	N	S or CU	P	In the E-1 zone, uses within 200 feet of a residential zone require CU permit
Commercial Excavation and Removal of	N	N	N	N	CU+	N	N	N	N	Sec. 18.2.3.070

⁵ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
Sand, Gravel, Stone, Loam, Dirty or Other Earth Products					S					
F. Industrial and Employment Uses <i>(continued)</i> ⁶										
Concrete or Asphalt Batch Plant	N	N	N	N	N	N	N	N	CU	
Dwelling for a caretaker or watchman	N	N	N	N	N	N	N	CU	CU	
Food Products Manufacture/Processing/Preserving, including canning, bottling, freezing, drying, and similar processing and preserving.	N	N	N	N	N	N	S	S	P	In the C-1 zone, manufacture or assembly of items sold is a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet In the E-1 zone, See Sec. 18.2.3.140
Manufacture, General, <u>includes Marijuana Laboratory, Processing, and Production</u>	N	N	N	N	N	N	N	<u>P or S</u>	<u>P or S</u>	<u>In E-1 and M-1 zones, marijuana laboratory, processing, and production are a special use. See Sec. 18.2.3.190</u> <u>See Marijuana Cultivation, Homegrown</u>
Manufacture, Light; excluding saw, planning or lumber mills, or molding plants.	N	N	N	N	N	N	S	P	P	Requires assembly, fabricating, or packaging of products from previously prepared materials such as cloth, plastic, paper, cotton, or wood In the C-1 zone, manufacture or assembly of items sold in a permitted use, provided such manufacturing or assembly occupies 600 square feet or less, and is contiguous to the permitted retail outlet
Outdoor Storage of Commodities or	N	N	N	N	N	N	CU	CU	P	

⁶ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

Table 18.2.2.030 – Uses Allowed by Zone										
	R-1	R-1-3.5	R-2	R-3	RR	WR	C-1 & C-1-D	E-1	M-1	Special Use Standards
Equipment associated with an allowed use										
Television and Radio Broadcasting Studio	N	N	N	N	N	N	N	P	P	
Wholesale Storage and Distribution, <u>includes Marijuana Wholesale</u>	N	N	N	N	N	N	N	<u>NS</u>	<u>PS</u>	Distribution uses <u>Deliveries and shipments limited to 7AM-9PM</u> within 200 feet of a residential zone <u>limited to 9PM-7AM</u> <u>In E-1 and M-1 zones, marijuana wholesale is a special use, See Sec. 18.2.3.190</u>
F. Industrial and Employment Uses <i>(continued)</i>										
Wrecking, Demolition, and Junk Yards	N	N	N	N	N	N	N	N	CU	
G. Other Uses ⁷										
Temporary Tree Sales	N	N	N	N	N	N	P	N	N	Allowed from November 1 to January 1
Temporary Use	CU, except uses lasting less than 72 hours are subject to Ministerial review, per Sec. 18.2.2.030.H									

⁷ KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

SECTION 2. Chapter 18.2.3 [Special Use Standards-Home Occupation] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.2.3.150 Home Occupation

A. Purpose and Intent. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture are appropriate in scale and impact to be operated within a residence. Home occupations are recognized for their contribution in reducing the number of vehicle trips often generated by conventional businesses. It is the intent of this chapter that home occupations not infringe upon the right of neighboring residents to enjoy the peaceful and safe occupancy of their homes.

B. Conduct of Home Occupation – Standards. Home occupations are permitted pursuant to the following standards. Where a home occupation use does not comply with one or more of the following requirements, the Staff Advisor may find the subject use is no longer permitted.

1. Appearance of Residence.

- a. The home occupation shall be restricted to the dwelling unit, accessory structure, or yard area not visible from the public right-of-way and be conducted in such a manner as not to give an outward appearance of a business.
- b. The home occupation shall not result in any structural alterations or additions to the dwelling or accessory structure that will change its primary use.
- c. No display of products and or equipment produced or used by the home occupation may be displayed so as to be visible from outside the dwelling or accessory structure.

2. Storage.

- a. Outside storage, visible from the public right-of-way, or adjacent properties, is prohibited.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond that normally incidental to residential use is prohibited.
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in the dwelling or accessory structure.

3. Employees.

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full time equivalent employee, and no more than one employee at any given time. As used in this chapter, the term "home occupation site" means the lot on which the home occupation is conducted.
- b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work at the home.
- c. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

4. Advertising and Signage. No signs shall be permitted on a home occupation site.

5. Automobiles, Parking, and Traffic.

- a. One commercial automobile associated with the home occupation is allowed at the home occupation site. Such automobile shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
- b. There shall be no excessive commercial vehicle deliveries from or to the home occupation site. Excessive deliveries are defined as more than three per day, during the hours of 7 a.m. to 7 p.m. There shall be no commercial vehicle deliveries during the hours of 7 p.m. to 7 a.m.
- c. There shall be no more than one client or customer's automobile at any one time and no more than eight per day at the home occupation site.

6. Clients or customers are permitted at the home occupation from 7 a.m. to 7 p.m. only.

C. Prohibited Uses. The following uses are prohibited as home occupations.

1. Any activity that produces radio or television interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards.
2. Any activity involving on-site retail sales, except as allowed in the Historic District Overlay or items that are incidental to the occupational use, such as the sale of beauty products from salons, lesson books or sheet music for music teachers, or computer software for computer consultants.
3. Any of the following uses, and uses with similar objectionable impacts because of automobile traffic, noise, glare, odor, dust, smoke, or vibration.
 - a. Ambulance service.
 - b. Ammunition or firearm sales.
 - c. Ammunition reloading business.
 - d. Animal hospital, veterinary services, kennels, or animal boarding.
 - e. Auto and other vehicle repair, including auto painting.
 - f. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, or large equipment on-site.
 - g. ~~Medical marijuana dispensary~~ **Marijuana-related business.**

D. Permit Required – Application

1. No person shall conduct a home occupation without first obtaining a home occupation permit from the Planning Department and a valid business license as required under AMC title 6.
2. The home occupation permit shall include such information as is necessary to determine the location and type of business, and the manner in which it will be conducted. If the Staff Advisor finds that the proposed home occupation complies with the requirements of this chapter, the Staff Advisor shall issue a permit.
3. The home occupation permit is valid only to the person named on the permit and for the

business to be conducted at the location stated on the permit. The permit is not transferable to another location or to another applicant.

4. Issuance of a home occupation permit under this chapter shall not relieve the applicant from the duty and responsibility to comply with all other rules, regulations, ordinances, or other laws governing the use of the premises and structures thereon, including, but not limited to, the specialty codes defined in AMC [15.04](#), the fire code standards defined in AMC [15.28](#), or any private restrictions relative to the property.
5. The Staff Advisor may visit and inspect the site of a home occupation permitted in this chapter periodically to insure compliance with all regulations and conditions to which the permit is subject, during normal business hours, and with reasonable notice.

SECTION 3. Chapter 18.2.3 [Special Use Standards-Medical Marijuana Dispensary] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.2.3.190 Medical Marijuana Dispensary Marijuana-Related Uses.

A. Homegrown Marijuana Cultivation. Where homegrown marijuana cultivation is allowed, it shall meet all of the following requirements. See definition of homegrown marijuana cultivation in part 18-6.

- 1. Primary Residence. The resident grower must live on the property where the cultivation of homegrown marijuana is located and that same property must be the primary residence of the resident grower.**
- 2. Related Activities. Any drying, keeping, storage, or processing of homegrown marijuana shall be located within the dwelling unit or an accessory structure and shall not be located outdoors.**
- 3. Homegrown marijuana cultivation and any related activities must meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.**
- 4. Outdoor Cultivation. Up to four marijuana plants per lot are allowed to be grown outdoors. Outdoor homegrown marijuana cultivation shall meet all of the following requirements.**
 - a. Locate marijuana plants so the plants are not visible from a public place, public street or any area that the general public has access (e.g., schools, playgrounds, parks, commonly-owned open space, pedestrian and bicycle paths and trails). Marijuana plants shall not be located in a front yard.**
 - b. Screen marijuana plants to limit view and access from adjacent residential properties with a solid wood fence or masonry wall. Any access points to the cultivation area must be secured at all times to prevent unauthorized access. For fence and wall design requirements, see section 18.4.4.060.**
 - c. Dimensional Standards. Marijuana plants grown in outdoor cultivation areas shall meet all of the following dimensional standards including Table 18.2.3.190.c.**

- i. Locate cultivation area closer to the primary residence of the resident grower than to dwellings on adjoining properties or to dwellings in the same multifamily development.
- ii. Marijuana plants may be located in one cultivation area or in separate cultivation areas throughout a yard.

Table 18.2.3.190.3.c Outdoor Cultivation Dimensional Standards for Homegrown Marijuana¹

<u>Number of Marijuana Plants</u>	<u>Maximum Cultivation Area Allowed²</u>	<u>Maximum Marijuana Plant Height³</u>	<u>Minimum Setback from Any Property Line</u>	<u>Minimum Setback from Dwellings on Adjoining Properties⁴</u>
<u>4 or fewer plants</u>	<u>50 square feet</u>	<u>10 Feet</u>	<u>10 feet</u>	<u>20 feet</u>

¹Contiguous lots under single ownership shall be considered one lot for the purpose of calculating the dimensional standards for homegrown marijuana.

²All parts of a marijuana plants that are visible above the ground level shall be contained within the perimeter of the cultivation area. Where plants are located separately, the combined total of the individual cultivation areas shall not exceed the maximum cultivation area.

³Marijuana plants shall not exceed ten feet in height from the top of the average surrounding grade.

⁴Marijuana plants must also be located the setback distance from any multifamily dwelling unit within a multifamily development.

d. Multi-Family Development. Homegrown marijuana may be cultivated outdoors on a lot containing multi-family dwellings in conformance with the requirements of subsection 18.2.3.190.A and provided all of the following requirements are met.

i. The property owner provides written notification to all residents of the development and to the City that verifies the cultivation of marijuana plants will comply with the requirements of 18.2.3.190.A. The written notification shall include the following information.

- 1. Property owner, property manager, or home owner association representative contact information including the name, address, and phone number(s).**
- 2. Contact information for an onsite resident designated as the primary responsible party for the marijuana plants and maintenance. Contact information shall include the name, address, and phone number of the responsible party.**
- 3. The City requirements for the outdoor cultivation of marijuana including the maximum number of plants per lot and the requirements of subsection 18.2.3.190.A.**

5. Indoor Cultivation.

a. Building Code. Any structure, accessory structure, electrical service, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with marijuana cultivation shall satisfy the Building Code requirements and obtain all

required building permits prior to installation. See section 18.2.5.040 Accessory Buildings and Structures.

- b. Light and Glare. Shield lighting systems and use window coverings to confine light and glare from light systems associated with indoor cultivation to the interior of the structure.
- c. No dwelling unit shall be used primarily as a place to cultivate marijuana. Vacant or uninhabited dwelling units shall not be used for marijuana cultivation.

B. Marijuana-Related Businesses.

1. Marijuana-related businesses may require Site Design Review under chapter 18.5.2 or a Conditional Use Permit under Chapter 18.5.4. See Table 18.2.2.030 – Uses Allowed by Zone for zones where marijuana-related businesses are allowed. See definition of marijuana-related businesses in part 18.6. Marijuana-related businesses shall meet all of the following requirements.

- a. The business must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor marijuana cultivation or storage of merchandise, raw materials, or other material associated with the business is prohibited.
- b. Any modifications to the subject site or exterior of a building housing the business must be consistent with the Site Design Use Standards, and obtain Site Design Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.
- c. The business must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the business' exterior refuse containers.
- d. Light and Glare. Shield lighting systems and use window coverings to confine light and glare from light systems associated with indoor cultivation so as to confine light and glare to the interior of the structure. Grow light systems within a greenhouse are prohibited.
- e. Building Code. Any structure, accessory structure, electrical service, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with a business shall satisfy the Building Code requirements and obtain all required building permits prior to installation.
- f. The property owner shall record a declaration which waives any claim or right to hold the City liable for damages they or a tenant may suffer from state or federal enforcement actions for activities the City permits as a result of its approval of the proposed use or development once such approval is granted. Furthermore, the owner and tenant agrees not to unreasonably disobey the City's order to halt or suspend business if state or federal authorities order or otherwise subject the City to enforcement to comply with laws in contradiction to the continued operations of the business as permitted under section 18.2.3.190.

g. A marijuana-related business must obtain an approved license or registration from the State of Oregon and meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.

2. Marijuana Laboratories, Processing, and Production. In addition to the standards described above in subsection 18.2.3.190.B.1, marijuana laboratories, processing, and production shall meet the following requirements. See definition of marijuana processing and production in part 18.6.

a. Marijuana laboratories, processing, and production shall be located 200 feet or more from residential zones.

b. Marijuana production shall be limited to 5,000 square feet of gross leasable floor area per lot.

3. Marijuana Retail Sales. In addition to the standards described above in subsection 18.2.3.190.B.1, marijuana retail sales shall meet the following requirements. See definition of marijuana retail sales in part 18.6.

~~A. — Boulevard Location. Medical marijuana dispensaries are permitted subject to all of the following design standards.~~

~~1. The dispensary must be located on a property with a boundary line adjacent to a boulevard, except that dispensaries are not permitted in the Downtown Design Standards zone.~~

~~2. The dispensary must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the dispensary is prohibited.~~

~~3. Any modifications to the subject site or exterior of a building housing the dispensary must be consistent with the Site Design Use Standards, and obtain Site Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.~~

~~4. The dispensary establishment must not have a drive-up use.~~

~~5. The dispensary must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the dispensary's exterior refuse containers.~~

~~6. The dispensary is registered with the Oregon Health Authority under the state of Oregon's medical marijuana facility registration system under ORS 475.300—ORS 475.346, and meets the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.~~

~~B. Other Locations. Medical marijuana dispensaries, except as allowed in section 18.2.3.190.A, are subject to a Conditional Use Permit under chapter 18.5.4 and shall meet all of the following requirements.~~

~~1. The dispensary must be located 200 feet or more from a residential zone, except that dispensaries are not permitted in the Downtown Design Standards zone.~~

- ~~2. The dispensary must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the dispensary is prohibited.~~
- ~~3. Any modifications to the subject site or exterior of a building housing the dispensary must be consistent with the Site Design Use Standards, and obtain Site Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.~~
- ~~4. The dispensary must not have a drive-up use.~~
- ~~5. The dispensary must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the dispensary's exterior refuse containers.~~
- ~~6. The dispensary is registered with the Oregon Health Authority under the state of Oregon's medical marijuana facility registration system under ORS 475.300—ORS 475.346, and meets the requirements of OAR Chapter 333 Division 8 Medical Marijuana Facilities.~~

a. Location.

- i. Marijuana retail sales are allowed if located on a property with a boundary line adjacent to a boulevard.**
- ii. Marijuana retail sales, except as allowed above in subsection 18.2.3.190.B.3.a.i, must be located 200 feet or more from a residential zone and are subject to a Conditional Use Permit under chapter 18.5.4 and shall meet all of the following requirements.**
- iii. Marijuana retail sales are not permitted in the Downtown Design Standards Zones.**
- iv. Marijuana retail sales must not be located within 1,000 feet of another marijuana retail sales establishment. For the purposes of determining the distance between a retail sales establishment and another retail sales establishment "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of an approved retail sales establishment to the closest point anywhere on the premises of a proposed retail sales establishment. If any portion of the premises of a proposed retail sales establishment is within 1,000 feet of an approved retail sales establishment it may not be approved. For the purpose of this section, premises is all public and private enclosed areas within a building at the location that are used in the business operation, including offices, kitchens, rest rooms and storerooms.**

b. Drive-up Use. The marijuana retail sales outlet must not include a drive-up use.

SECTION 4. Chapter 18.2.5 [Standards for Residential Zones] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.2.5.040 Accessory Buildings and Structures

Accessory buildings and structures shall comply with all requirements for the principal use, except where specifically modified by this ordinance, and shall comply with the following limitations:

- A. Setback Yard Exceptions.** See subsection 18.2.5.060.B.2.
- B. Guesthouse.** A guesthouse may be maintained accessory to a single-family dwelling provided there are no kitchen cooking facilities in the guesthouse.
- C. Greenhouse or Hothouse.** A greenhouse or hothouse may be maintained accessory to a dwelling in a residential zone. See section 18.2.3.190 for homegrown marijuana cultivation and production requirements.
- D. Livestock Structures.** Except as provided for micro-livestock in subsection 18.2.5.040.E, below, barns, stables, and other structures shall be located a minimum of 50 feet from any property line, and structures housing large livestock shall be more than 100 feet from dwellings on adjoining properties.
- E. Micro-Livestock Enclosure.** An enclosure housing micro-livestock may be maintained in a residential district, pursuant to section 18.2.3.160. Enclosures shall be constructed as follows:
 - 1. The structure shall not be located in a required front yard.
 - 2. The structures shall be setback a minimum of ten feet from abutting properties as illustrated in Figure 18.2.5.040.E.2.
 - 3. The structures shall be at least 20 feet from dwellings on adjoining properties. Within a multifamily complex, structures must also be located at least 20 feet from any dwelling within the complex.
 - 4. The structures shall not exceed six feet in height.
 - 5. Chicken coops and rabbit hutches shall not exceed 40 square feet in area, or four square feet per animal, whichever is greater.
 - 6. Chicken and rabbit runs, as enclosed outdoor structures, shall not exceed 100 square feet in area, or ten square feet per animal, whichever is greater.

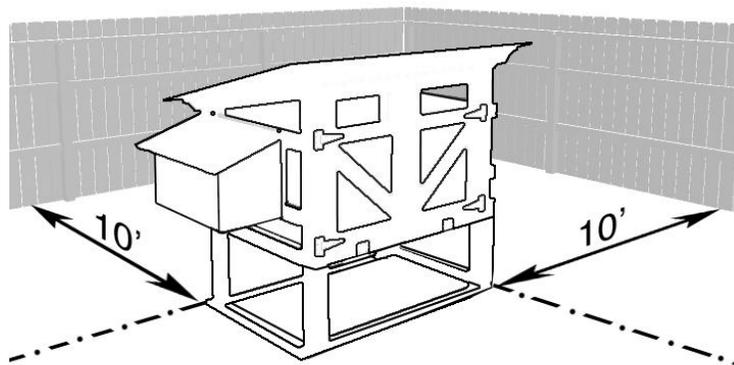


Figure 18.2.5.040.E.2
Micro-Livestock Enclosure/Minimum Setback to Property Line

F. Rain Barrels. Rain barrels may be located within required side or rear yards provided such installation and operation is consistent with other provisions of this ordinance or the Ashland Municipal Code, and meet the all of the following requirements:

1. Rain barrels shall not exceed six feet in height.
2. Rain barrels shall be located so that a minimum clear width of three feet is provided and maintained between the barrel and property line.
3. Rain barrels shall be secured and installed on a sturdy and level foundation, or platform, designed to support the rain barrel's full weight.
4. Every attempt shall be made to place rain barrels so that they are screened from view of adjacent properties and public streets.

SECTION 5 Chapter 18.3.2 [Croman Mill District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.2.040 Allowed Uses

- A. Uses Allowed in Croman Mill Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to a conditional use permit. Where Table 18.3.2.040 does not list a specific use and part 18.6 does not define the use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of section 18.1.5.040 Similar Uses. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. All uses are subject to the development standards of zone in which they are located, any applicable overlay zone(s), and the review procedures of part 18.5. See section 18.5.1.020 Determination of Review Procedure.
- B. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2 Base Zones, additional land use standards or use restrictions apply within overlay zones. An overlay zone may also provide for exceptions to some standards of the underlying zone. For regulations applying to the City’s overlays zones, please refer to part [18.3](#).
- C. Mixed-Use.** Uses allowed in a zone individually are also allowed in combination with one another, in the same structure or on the same site, provided all applicable development standards and building code requirements are met.

Table 18.3.2.040 – Croman Mill District Uses Allowed by Zone ⁸					
	Croman Mill District Zones ⁹				
	NC	MU	OE	CI	OS
A. Residential					
Residential Uses	S	S	N	N	N
<u>Agricultural Uses, except Keeping of Livestock</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>

⁸Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.
⁹ Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

Table 18.3.2.040 – Croman Mill District Uses Allowed by Zone ⁸					
	Croman Mill District Zones ⁹				
	NC	MU	OE	CI	OS
<u>Keeping of Bees, Micro-Livestock and Livestock</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>Marijuana Cultivation, Homegrown</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>N</u>	<u>N</u>
Temporary Employee Housing	N	N	S	S	N
B. Commercial					
Stores, restaurants, and shops less than 3,000 sq. ft., excluding fuel sales, automobile sales and repair	P	N	N	N	N
Limited stores, restaurants, and shops, excluding fuel sales, automobile sales, and repair, <u>including marijuana retail sales</u>	N	<u>S or C</u>	<u>S or C</u>	<u>S or C</u>	N
Professional, financial, business, and medical offices	N	P	P	S	N
Administrative or research and development establishments	N	P	P	P	N
Child or day care centers	P	S	S	S	N
Fitness, recreations sports, gym or athletic club	P	N	N	N	N
Ancillary employee services (e.g., cafeteria, fitness area)	N	S	S	S	N
Kennels (indoor) and veterinary clinics	N	N	S	S	N
Motion picture, television or radio broadcasting studios	N	P	P	P	N
Temporary uses	C	C	C	C	C
C. Industrial					
Manufacturing, assembly, fabrication or packaging including manufacturing of food products	N	P	S	P	N
Limited manufacturing affiliated with a retail use	S	N	N	N	N
<u>Marijuana laboratory, processing, and production</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>
Rail freight loading dock facilities	N	N	N	P	N
Rail or rapid transit passenger facilities	P	P	P	P	N
Warehouse and similar storage facilities, <u>including marijuana wholesale</u>	N	S	S	S	N
Limited outdoor storage	N	S	S	S	N
Wireless communication facilities attached to an existing structure pursuant to 18.72.180	C	C	P	P	N
Freestanding wireless communication support structures pursuant to 18.72.180	C	C	C	C	N
D. Public and Institutional					
Public service or community buildings with office or space used directly by the public	P	C	C	C	P
Public service or community buildings without office or space used directly by the public	C	C	C	C	C
Public and quasi public utility facilities	S	S	S	S	S

Table 18.3.2.040 – Croman Mill District Uses Allowed by Zone ⁸					
	Croman Mill District Zones ⁹				
	NC	MU	OE	CI	OS
enclosed in a building					
Oregon Department of Transportation (ODOT) maintenance facility and yard	S	N	N	N	N
Private school, college, trade school, technical school or similar school	C	C	C	C	N
Electrical substations	N	N	C	C	N

¹Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

²Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

D. Special Permitted Uses. The following uses and their accessory uses are special permitted uses as listed in the Land Use Table and are subject to the requirements of this section and the requirements of chapter 18.5.2 Site Design Review.

1. Residential Uses. Residential uses provided all of the following standards are met.
 - a. The ground floor area shall be designated for permitted or special permitted uses, excluding residential.
 - b. Residential densities shall not exceed the densities in section Dimensional Regulations. For the purposes of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
 - c. Residential uses shall execute a hold harmless covenant and agreement stating they shall not protest impacts from commercial and industrial uses within the district.

2. Marijuana Cultivation, Homegrown. Subject to the standards in section 18.2.3.190.

23. Temporary Employee Housing. Residential units for use by persons employed within the facility and their families when all of the following standards are met.

- a. Employee housing densities shall not exceed two units per acre. For the purposes of density calculations, units of less than 500 square feet of gross habitable floor area shall count as 0.75 of a unit.
- b. The employee housing shall be in conjunction with a permitted or special permitted use on the property.
- c. Units shall be restricted by covenant to be occupied by persons employed by a business operating on the property.

Stores, restaurants, and shops less than 3,000 sq. ft., excluding fuel sales, automobile sales and repair, **including marijuana retail sales**

34. Limited Commercial Services and Retail. Stores, restaurants, shops, child/day care facilities, and ancillary employee services, when all of the following standards are met.

- a. In the CI, MU, and OE zones, a maximum of 15 percent of the gross floor area in a building may be used for any or a combination of the following special permitted uses when the

standards in this section are met: limited stores, restaurants, and shops; child or day care facilities; and ancillary employee services.

- b. *Limited Stores, Restaurants and Shops.* In the MU zone, the floor area shall be limited to retail uses in conjunction with a permitted use.
- c. *Child or Day Care Facilities.* Primary program activities are integrated into the interior of the building.
- d. *Ancillary Employee Services.* Developments may include ancillary employee services such as cafeterias, fitness areas, or other supportive services generally intended to support the needs of employees when the following standards are met.
 - i. The use is integrated into the interior of the building.
 - ii. The ancillary employee services shall be in conjunction with a permitted or special permitted use on the property.

e. *Marijuana Retail Sales.* Marijuana retail sales are subject to the standards in 18.2.3.190.

45. Professional, Financial, Business and Medical Offices in CI Zone. Developments in the CI zone may include ancillary office uses to support the operations of a permitted use on-site provided the maximum floor area dedicated for office uses shall not exceed 50 percent of the ground floor area.

56. Kennels. Kennels when all of the following standards are met.

- a. Kennels shall be located at least 200 feet from the nearest residential dwelling.
- b. All animals shall be boarded within a building at all times.
- c. No noise or odor shall emanate outside the walls of the building used as a kennel.
- d. A disposal management plan shall be provided demonstrating all animal waste will be disposed of in a sanitary manner.

67. Manufacture, Assembly, Fabrication, and Packaging in OE Zone. Developments in the OE zone may include ancillary manufacturing, assembly, fabrication, and packaging uses to support the operations of a permitted or special permitted use on-site when all of the following standards are met.

- a. The maximum floor area dedicated to manufacturing, assembly, fabrication, and packaging shall be 50 percent of the ground floor area.
- b. No outside space shall be used for the manufacturing, assembly, fabrication, and packaging processes.

78. Limited Manufacturing Affiliated with a Retail Use. Manufacturing, assembly, fabrication, or packaging contiguous to and associated with a retail space, provided the maximum floor area dedicated to manufacturing occupies 1,000 square feet, or ten percent of ground floor area, whichever is less.

9. Marijuana Laboratory, Processing, and Production.

a. Marijuana laboratory, processing, and production are subject to the standards for marijuana-related businesses in 18.2.3.190.

b. In the OE zone, marijuana laboratory, processing, and production are subject to subsection 18.3.2.040.D.7, above.

810. Warehouse and Similar Storage Facilities. Warehouse and similar storage facilities when all of the following standards are met.

- a. The maximum floor area dedicated for use as warehouse or similar storage uses in the OE and MU zones shall be 50 percent of the ground floor area.
- b. Warehouse and storage facilities shall be provided only in conjunction with, and for the exclusive use by, a permitted or special permitted use on the property.
- c. Self-service mini-warehouses are prohibited.
- d. No outside space shall be used for storage, unless approved as a limited outdoor storage area.

e. Marijuana Wholesale. A marijuana wholesale storage and distribution operation shall limit deliveries and shipments to 7:00 a.m. to 9:00 p.m. within 200 feet of a residential zone and are subject to the standards for marijuana-related businesses in 18.2.3.190.

911. Limited Outdoor Storage. Limited outdoor storage associated with a permitted or special permitted use when all of the following standards are met.

- a. The maximum area dedicated to outdoor storage shall be 1,000 sq. ft. in the OE and MU zone; and 2,500 sq. ft. in the CI zone, or 50 percent of the ground floor area of the building housing the associated permitted or special permitted use, whichever is greater.
- b. The outdoor storage shall be located behind or on the side of buildings, and shall be located so the outdoor storage is the least visible from the street that is reasonable given the layout of the site.
- c. The outdoor storage shall be screened from view by placement of a solid wood or metal fence, or a masonry wall from five to eight feet in height.
- d. The associated permitted use shall obtain a minimum of 50 percent of the employment density targets for the Croman Mill District.

1012. Public and Quasi-Public Utility Service Buildings. Public and quasi-public utility service buildings when all of the following standards are met.

- a. Facilities and structures that are accessory to a public park in the OS zone, including but not limited to maintenance equipment storage, enclosed picnic facilities, and restrooms.
- b. Public and quasi-public utility service building relating to receiving and transmitting antennas and communication towers are subject to the applicable provisions of 18.4.10.
- c. Public and quasi-public utility service building shall demonstrate all of the following.
 - i. The need for the facility, present or future; and how the facility fits into the utility's master plan.

- ii. The facility utilizes the minimum area required for the present and anticipated expansion.
- iii. Compatibility of the facility with existing surrounding uses and uses allowed by the plan designation.

1113. Oregon Department of Transportation Maintenance Facility and Storage Yard. For the Oregon Department of Transportation Ashland maintenance facility and storage yard located on property within the NC zone, all the following shall apply.

- a. Buildings may be enlarged or replaced subject to Basic Site Review Standards.
- b. Are exempt from the Dimensional Regulations per [18.3.2.050](#) with the exception of minimum side and rear yard setbacks abutting a residential district and maximum height.
- c. Are exempt from the requirements of part 18.4 Site Development and Design Standards, and the requirements of [18.3.2.060](#) Croman Mill District Site Development and Design Standards.

SECTION 6 Chapter 18.3.3 [Health Care Service District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.3.030 Permitted Uses

The following uses and their accessory uses are permitted outright.

- A.** Residential **and agricultural** uses, subject to the requirements of the R-2 zone.
- B.** Home occupations.
- C.** Offices or clinics for a dentist or doctor or allied health care providers, including, but not limited to, nurse practitioner, midwives, dieticians, psychologists, opticians, physical and occupational therapists, substance abuse counselors, chiropractors, and wellness centers, including nutritional counseling, health maintenance, and rehabilitation services.
- D.** Ambulance and paramedic service.
- E.** Medical laboratories.
- F.** Sales or rentals of durable medical goods.
- G.** Congregate care facilities, assisted living facilities, residential care facilities, and nursing homes.
- H.** Any use, located on City owned property, that is specifically allowed by the Ashland Community Hospital Master Facility Plan adopted by the City by ordinance.

SECTION 7 Chapter 18.3.5 [North Mountain Neighborhood District] of the Ashland Land Use Ordinance is hereby amended to read as follows:

18.3.5.050 Allowed Uses

- A. Uses Allowed in North Mountain Neighborhood Zones.** Allowed uses include those that are permitted, permitted subject to special use standards, and allowed subject to a conditional use permit. Where Table 18.3.5.050 does not list a specific use and part 18.6 does not define the use or

include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of section 18.1.5.040 Similar Uses. Uses not listed in Table 18.2.2.030 and not found to be similar to an allowed use are prohibited. All uses are subject to the development standards of zone in which they are located, any applicable overlay zone(s), and the review procedures of part 18.5. See section 18.5.1.020 Determination of Review Procedure.

- C. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of chapter 18.2.2 Base Zones, additional land use standards or use restrictions apply within overlay zones. An overlay zone may also provide for exceptions to some standards of the underlying zone. For regulations applying to the City's overlays zones, please refer to part 18.3.
- C. Mixed-Use.** Uses allowed in a zone individually are also allowed in combination with one another, in the same structure or on the same site, provided all applicable development standards and building code requirements are met.

Table 18.3.5.050 – North Mountain Neighborhood Uses Allowed by Zone ¹⁰					
	North Mountain Neighborhood Zones ¹¹				
	NM-R-1-7.5	NM-R-1-5	NM-MF	NM-C	NM-Civic
A. Residential					
Residential Uses, subject to density requirements in Table 18.3.5.050	P	P	P	P	N
Accessory Residential Units	S	S	N	P	N
Agricultural Uses	P	P	P	P	S
Home Occupations	P	P	P	P	N
<u>Agricultural Uses, except Keeping of Livestock</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u>
<u>Keeping of Micro-Livestock and Bees</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>	<u>S</u>
<u>Keeping of Livestock</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>Marijuana Cultivation, Homegrown</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>
B. Public and Institutional Uses					
Community Services	N	S	N	S	P
Parks and Open Spaces	P	P	P	P	P
Public Parking Lots	N	N	N	CU	N
Religious Institution, Houses of Worship	N	N	N	S	N
Utility and Service Building, Public and Quasi-Public, excluding outdoor storage and electrical substations	N	N	N	S	N
B. Commercial					
Neighborhood Clinics	N	N	N	P	N
Neighborhood Oriented Retail Sales and Services	N	N	N	P	N
Offices, Professional	N	N	N	P	N
Restaurants	N	N	N	P	N
Temporary uses	N	N	N	CU	N
C. Industrial					
Manufacturing, Light	N	N	N	S	N

¹ Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

² Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

D. Special Permitted Uses. The following uses and their accessory uses are special permitted uses as listed in the Land Use Table and are subject to the requirements of this section and the requirements of chapter 18.5.2 Site Design Review.

1. Accessory Residential Units.

- a. Accessory residential units are not subject to the density requirements of the zone and are not included in the base density calculations.
- b. One accessory residential unit is allowed per lot, and the maximum number of

¹⁰ Key: P = Permitted Uses; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.

¹¹ Zones: NC = Neighborhood Commercial; MU = Mixed Use; OE = Office Employment; CI = Compatible Industrial; OS = Open Space.

dwelling units must not exceed two per lot.

- c. The proposal must comply with the lot coverage and setback requirements of the underlying zone.
 - d. The maximum gross habitable floor area (GHFA) of the accessory residential unit must not exceed 50 percent of the GHFA of the primary residence on the lot, and must not exceed 750 square feet GHFA, except that second story accessory residential units constructed above a detached accessory building must not exceed 500 square feet GHFA.
 - e. Additional parking shall be provided in conformance with the off-street parking provisions for single-family dwellings in section 18.4.3.040.
2. Agricultural Uses.
 - a.—In the NM-Civic zone, agriculture may include community garden space.
 3. **Keeping of Micro-Livestock and Bees. Subject to the standards in section 18.2.3.160.**
 4. **Marijuana Cultivation, Homegrown. Subject to the standards in section 18.2.3.190.**
 3. Community Services.
 - a. In the NM-R-1-5 zone, each building may be up to a maximum of 2,500 square feet of gross floor area.
 - b. In the NM-C zone, each building may be up to a maximum of 3,500 square feet of gross floor area.
 4. Manufacturing, Light.
 - a. The light manufacturing use shall occupy 600 square feet or less.
 - b. The light manufacturing use shall be contiguous to the permitted retail outlet that operates in conjunction with and sells the manufactured items produced by the light manufacturing use.
 5. Neighborhood Clinics. Each building may be up to a maximum of 3,500 square feet of gross floor area.
 6. Neighborhood Oriented Retail Sales and Services. Each building may be up to a maximum of 3,500 square feet of gross floor area.
 7. Offices, Professional. Each building may be up to a maximum of 3,500 square feet of gross floor area.
 8. Religious Institution, Houses of Worship. The same use cannot be located on a contiguous property, and there must be no more than two such uses in a given zone.
 9. Utility and Service Building, Public and Quasi-Public. Each building may be up to a maximum of 3,500 square feet of gross floor area

SECTION 8 Chapter 18.6.1 [Definitions] of the Ashland Land Use Ordinance is hereby amended to read as follows:

Greenhouse. A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for personal enjoyment or for subsequent sale.

Homegrown Marijuana. Marijuana plants planted, cultivated, grown, and harvested by a person 21 years of age or older for personal consumption, whether for medical or non-medical purposes, or for a medical marijuana card holder. Medical marijuana grow sites located in residential zones shall be considered homegrown marijuana for the purpose of this ordinance.

Homegrown Marijuana Cultivation. The cultivation of homegrown marijuana and related activities such as processing, keeping, or storage of homegrown marijuana.

- **Cultivation Area. The area within which marijuana plants are grown on a lot. The cultivation area is the total of the individual areas of the drip lines of the marijuana plants at maturity. The drip line is an imaginary vertical line extending downward from the outermost tips of the marijuana plants branches to the ground.**
- **Resident Grower. An individual engaged in the cultivation of homegrown marijuana for personal consumption, whether for medical or non-medical purposes, or for a medical marijuana card holder.**

Marijuana. The plant Cannabis, family Cannabaceae, or any part or seed of the plant. It does not include industrial hemp.

- **Medical Marijuana. Marijuana used to mitigate the symptoms or effects of a medical condition and regulated by the Oregon Medical Marijuana Act (ORS 475.300 – ORS 475.346). Grown and sold by registered persons and facilities with the Oregon Health Authority (OHA).**
- **Recreational Marijuana. Marijuana used for personal consumption by a person 21 years of age or older.**

Marijuana Plant. Immature and mature plants of the plant Cannabis family Moraceae.

Marijuana-Related Businesses. Marijuana-related businesses licensed by the Oregon Liquor Control Commission (OLCC) or registered by the Oregon Health Authority (OHA). Marijuana-related businesses are organized into the following categories.

- **Laboratory. A laboratory that tests marijuana and marijuana items.**
- **Processing. Processing, compounding, or conversion of marijuana into cannabinoid products, concentrates, or extracts.**

- Production. Planting, cultivating, growing, harvesting, or drying marijuana. Medical marijuana grow sites located in non-residential zones that do not meet the definition of Homegrown Marijuana shall be considered production for the purpose of this ordinance.
- Retail. A business that sells marijuana and marijuana products to the consumer.
- Wholesale. An operation that handles and distributes marijuana and marijuana products for the purpose of resale.

~~—Medical Marijuana Dispensary. Any facility registered by the Oregon Health Authority under ORS 475.300 to 475.346 that dispense marijuana pursuant to ORS 475.314.~~

SECTION 9. Savings. Notwithstanding this amendment/repeal, 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 10. 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 11. 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 6-7) 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 _____, 2015, and duly PASSED and ADOPTED this ____ day of _____, 2015.

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2015.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney