

**BEFORE THE CITY COUNCIL
CITY OF ASHLAND, JACKSON COUNTY, OREGON**

September 4, 2018

In the Matter of Amendments to Title 18 Land Use and)	FINIDNGS OF
Title 9 Health and Sanitation of the Ashland Municipal)	FACTAND
Code Relating to the Wildfire Lands Map, Wildfire)	CONCLUSIONS OF
Development Standards, Fencing Requirements, Tree)	LAW
Removal Permit Requirements, and declaring Prohibited)	
Flammable Plants as a Nuisance.)	
)	

PURPOSE:

In an effort to address the risk that wildfire poses to persons and property throughout the community it is found to be reasonably necessary that the wildfire lands overlay boundary, and the development standards for wildfire lands be modified to mitigate the frequency, spread, acceleration, intensity, and size of fire involving buildings in the community. Additionally modifications to screening, fencing, and tree removal permit requirements are included in the ordinance amendments. The purpose of the ordinance amendments are to 1) Expand the boundary of Ashland’s designated Wildfire Lands Overlay to incorporate the entire City; 2) Implement new standards for Fire Prevention and Control Plans and fuels reduction associated with new development; 3) Amend the tree removal permit requirements to address parcels with further development potential, 4) Limit the introduction of highly flammable plants in proximity of existing or proposed structures. These purposes are addressed through the adoption of two ordinances and one resolution.

The first ordinance amendments include modifications to Ashland Land Use Ordinance Chapter 18.3.10.100 Development Standards for Wildfire Lands; 18.3.10.020 Physical Constraints Review Permit, 18.3.10.040 Physical Constraints Review Application Submission Requirements, 18.3.10.090 Development Standards for Hillside Lands; 18.4.3.080 Vehicle Area Design; 18.4.4 Landscaping, Lighting, and Screening; 18.5.1 General Procedures; 18.5.3.060 Additional Preliminary Flag Lot Partition Plat Criteria; 18.5.5 Variances; 18.5.7 Tree Removal Permits; 18.6 Definitions; and amends the official Physical and Environmental Constraints Map to expand the boundary of Ashland’s designated Wildfire Lands Overlay to include all properties within the city limits and urban growth boundary.

The second ordinance amends the Ashland Municipal Code Health and Sanitation Chapter section 9.04 [Weeds and Noxious Vegetation] to declare prohibited flammable plants as a nuisance within designated General Fuel Modification Areas. A corresponding resolution establishes a list of prohibited flammable plants to be regulated within General

Fuel Modification Areas.

PUBLIC HEARINGS:

An extensive public involvement process was undertaken to understand existing conditions, to develop and refine the ordinances amending Chapter 18 and Chapter 9 of the Ashland Municipal Code to address wildfire mitigation strategies. In total there have been 15 public meetings and two public open houses over the course of four years where the viewpoints of a variety of participants including the general public, property owners, developers, and landscape professionals have informed the development of the ordinances.

A Public Hearing was held at the Planning Commission on June 26th, 2018. The City Council held public hearings on July 17, 2018 and August 21, 2018, and held a public forum and study session on August 6th, 2018.

Newspaper notices were published in accordance with AMC 18.5.1.070.D.3 in the Ashland Daily Tidings on June 4, 2018 prior to the June 26th Planning Commission public hearing and the July 17th City Council public hearing, and an additional notice was published on August 7, 2018 prior to the August 21st City Council public hearing and first reading of the ordinances. Notice was also sent to the Oregon Department of Land Conservation and Development on May 11, 2018.

REVIEW CRITERIA

The decision of the City Council together with the recommendation by the Planning Commission was based on consideration and findings of consistency with the following factors.

- A. Consistency with City of Ashland Requirements for Legislative Amendments in AMC 18.5.9.020.B
- B. Consistency with City of Ashland Comprehensive Plan and other applicable City of Ashland Goals and Policies
- C. Consistency with Oregon land use laws, regulations including Oregon Senate Bill 1051 and the Regional Plan

EVALUATION AND COUNCIL FINDINGS:

This legislative action includes proposed amendments to the Physical and Environmental Constraints Map to expand the boundary of Ashland’s designated Wildfire Lands to incorporate the entire City; amendments to the Ashland Land Use Ordinance to implement new standards for fire prevention and control plans and fuels reduction associated with development; amendments to the Tree Removal permit requirements; and a Resolution to establish a Prohibited Flammable Plant list and a municipal Code amendment to declaration that such plants as a fire hazard.

The Council finds that wildfire poses a risk to persons and property throughout the entire community and therefore determined that the designated wildfire lands boundary, and the development standards for wildfire lands, should be applied city wide to mitigate for the potential adverse effects of wildfire.

A. *Consistency with City of Ashland Requirements for Legislative Amendments in AMC 18.5.9.020.B.*

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

AMC 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions. The City Council finds it is necessary to amend the Physical and Environmental Constraints Map Wildfire Lands Overlay boundary that was established in 1992 as it presently does not incorporate all areas within the City that meet the criteria to be considered a Wildfire Hazard Zone.

The City Council finds and determines that amendments to development standards for wildfire lands, and regulation of landscape profiles for new construction, is necessary to protect life, property and environmental resources in Ashland's suburban/wildland interface area from the devastating effects of wildfire, and to lessen the possibility of wildfire spreading to the Ashland watershed from the urban/wildland interface area. Further the City Council finds that the implementation of this ordinance will assist in preparing the City to be more resilient to climate change impacts, including wildfire.

The City Council finds and determines that all substantive issues raised regarding the Wildfire Lands Overlay Map changes, Land Use Ordinance amendments (Chapter 18), and amendments to the Weeds and Noxious Vegetation section of the Health and Sanitation chapter of the Municipal Code (Chapter 9) were adequately addressed by City staff in the numerous staff reports and staff responses, and other materials in the record,

whether such responses were made orally at the public hearings or provided in written form as set forth in the record. All staff reports, staff materials, and other staff responses are hereby accepted by the City Council and are incorporated herein by this reference.

The Council finds and determines that the proposed Wildfire Lands Overlay Map amendments, and amendments to the Ashland Land Use Ordinance and Municipal Code are consistent with the requirements for Legislative Amendments in AMC 18.5.9.020.B.

B. Consistency with the Ashland Comprehensive Plan and other applicable City of Ashland Goals and Policies

The ordinance amendments are consistent with the goals and policies in the *Ashland Comprehensive Plan*. The *Ashland Comprehensive Plan* includes a goal to:

“Protect life, property and environmental resources in Ashland’s suburban/wildland interface area from the devastating effects of wildfire. Lessen the possibility of wildfire spreading to the Ashland watershed from the urban/wildland interface area” (4.25 Wildfire Hazards).

The *2015-2017 Council Goals and Objectives* also identified a goal to:

“Complete the expansion of the city’s wildfire hazard zone to accurately reflect risk (8.4)” and an objective to *“Update the Wildfire Hazard Zone ordinance to allow for Citywide application and schedule for Council consideration.”*

The *2018 Draft Multi-Jurisdictional Natural Hazard Mitigation Plan [Ashland Addendum]* includes a goal to:

“Reduce the threat of loss of life and property from natural hazards by incorporating information on known hazards and providing incentives to make hazard mitigation planning a priority in land use policies and decisions, including plan implementation”

The City of Ashland’s *2017 Climate Energy Action Plan* includes a goal and strategies to:

“Prepare the city’s communities, systems, and resources to be more resilient to climate change impacts”

“Support more climate-ready development and land use.

“Regulate new development in the Wildfire Lands Overlay part of the urban growth boundary (Strategy ULT-4.)”.

The *2004 Ashland Community Wildfire Protection Plan* includes a goal to:

“Write and adopt a fire safe landscaping ordinance to regulate plantings around new structures.”

The City of Ashland’s *2014 Wildfire Hazard Zone Evaluation* demonstrated that the Wildfire Lands overlay boundary established in 1997 does not incorporate all areas within the City that meet the criteria to be considered a Wildfire Hazard Zone as set forth by OAR Chapter 629, Division 044, and found that expansion of the Wildfire Lands

boundary to include all properties in the existing City Limits, and the Urban Growth Boundary in anticipation of future annexations, was warranted.

C. *Consistency with Oregon land use laws and regulations including specifically Oregon Statewide Planning Goal 7*

Statewide Planning Goal 7 requires cities to protect people and property from natural hazards. The amendments to the Ashland Land Use Ordinance regarding mitigating wildfire hazards through reduction of fuels in immediate proximity of new structures addresses this goal. Additionally the establishment of a General Fuel Modification Area Prohibited Plant List as proposed, will ensure that highly flammable species are not newly introduced within areas that pose the greatest risk of spreading wildfire to structures within the City. The Council finds and determines that the proposed ordinances amending Chapter 18 and Chapter 9 of the Ashland Municipal Code will further the objectives of Statewide Planning Goal 7.

Based on the information contained within this report and facts and findings in support of the proposed map and ordinance amendments the City has conducted the planning process in compliance with Ashland's adopted review procedures (Ashland Land Use Ordinance Chapter 18.5.9) and in compliance with statewide planning goal 1.

OVERALL COUNCIL CONCLUSIONS

The City Council finds and determines the approval criteria for this decision have been fully met, based on the detailed findings set forth herein and the detailed findings and analysis of the Planning Commission, together with all staff reports, addenda and supporting materials in the whole record. Specifically, the Council finds that the ordinance amendments are consistent with City of Ashland requirements for Legislative Amendments in AMC 18.5.9.020.B. The Council finds that the amendments are consistent with and implement applicable *Ashland Comprehensive Plan Goals and Policies* and other City of Ashland Goals and Policies. The Council finds and determines that the amendments are consistent Oregon land use laws and regulations..

Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the City Council hereby APPROVES the ADOPTION of the following amendments to the AMC Title 18 Land Use as reflected in an ordinance amending chapters 18.3.10, 18.4.3.080, 18.4.4, 18.5.1, 18.5.3.060, 18.5.5.020, 18.5.7 and 18.6.1 of the Ashland Land Use Ordinance relating to wildfire development standards; physical constraints review permits; parking and circulation vehicle area design; landscaping, lighting and screening; land divisions and property line adjustments; and tree removal permits.

Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the City Council hereby APPROVES the ADOPTION of the amendments to the AMC Title 9.04 to declare Prohibited Flammable Plants a Nuisance.

Ashland City Council Approval

John Stromberg, Mayor

Date

Signature authorized and approved by the full Council this 4th day of September, 2018.

Attest:

Melissa Huhtala, City Recorder

Approved as to form:

David Lohman, Ashland City Attorney

Date